NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

Congressional Information Service, Inc
Washington, D.C.

CIS

IMPACT OF REGULATIONS ON PRODUCTION, PROCESSING, AND EXPORT OF POULTRY

HEARING

BEFORE THE

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

OF THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

FEBRUARY 16, 1982.—MERIDIAN, MISS.

Printed for the use of the
Committee on Agriculture, Nutrition, and Forestry

U.S. GOVERNMENT PRINTING OFFICE
92-936 O WASHINGTON: 1982

S161-12

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

JESSE HELMS, North Carolina, *Chairman*

BOB DOLE, Kansas	WALTER D. HUDDLESTON, Kentucky
S. I. HAYAKAWA, California	PATRICK J. LEAHY, Vermont
RICHARD G. LUGAR, Indiana	EDWARD ZORINSKY, Nebraska
THAD COCHRAN, Mississippi	JOHN MELCHER, Montana
RUDY BOSCHWITZ, Minnesota	DAVID H. PRYOR, Arkansas
ROGER W. JEPSEN, Iowa	DAVID L. BOREN, Oklahoma
PAULA HAWKINS, Florida	ALAN J. DIXON, Illinois
MARK ANDREWS, North Dakota	HOWELL HEFLIN, Alabama

GEORGE S. DUNLOP, *Chief of Staff*
J. ROBERT FRANKS, *General Counsel*
CARL P. ROSE, *Counsel and Staff Director for the Minority*

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

THAD COCHRAN, Mississippi, *Chairman*

JESSE HELMS, North Carolina	WALTER D. HUDDLESTON, Kentucky
MARK ANDREWS, North Dakota	EDWARD ZORINSKY, Nebraska
RUDY BOSCHWITZ, Minnesota	JOHN MELCHER, Montana
PAULA HAWKINS, Florida	ALAN J. DIXON, Illinois
	PATRICK J. LEAHY, Vermont

CONTENTS

	Page
Cochran, Hon. Thad, a U.S. Senator from Mississippi, opening statement	1
Heflin, Hon. Howell, a U.S. Senator from Alabama	2

CHRONOLOGICAL LIST OF WITNESSES

Baker, Bill, chairman of the board, Mississippi Poultry and Egg Association	3
Durbin, Marshall, Jr.	3
Sanderson, Joe Frank, president, Sanderson Farms, Inc., Laurel, Miss.	4
McCarty, H. F., president, McCarty-State Pride Farms, Inc., Magee, Miss.	7
Walsh, Dr. Earl C., chairman of the board, Green Acre Farms, Sebastopol, Miss.	11
Moore, Norris, chairman, poultry division, Mississippi Farm Bureau Federation, Pelahatchie, Miss.	13
Hayes, Dr. Arthur, Jr., Commissioner of Food and Drugs, Food and Drug Administration, Public Health Service, U.S. Department of Health and Human Services	20
Houston, Dr. Donald, Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture	22
Gordon, William W., Regional Administrator, Region IV, Occupational Safety and Health Administration, U.S. Department of Labor, accompanied by Dr. Alice Suter	25
Little, John A., Deputy Regional Administrator, Region IV, Atlanta, Ga., U.S. Environmental Protection Agency	28

APPENDIX

Montgomery, G. V., Representative in Congress from the Third District of Mississippi, statement	45
Durbin, Marshall, Jr., recommendations inserted by	46
Sanderson, Joe Frank, president, Sanderson Farms, Inc., Laurel, Miss., statement	47
McCarty, H. F., Jr., president, McCarty-State Pride Farms, Inc., Magee, Miss., statement	49
Walsh, Dr. Earl C., Green Acre Farms, Inc., Sebastopol, Miss., supplementary material to statement, with attachments	51
Hayes, Arthur Hull, Jr., M.D., Commissioner of Food and Drugs, Food and Drug Administration, Public Health Service, U.S. Department of Health and Human Services, statement	54
Houston, Dr. Donald, Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, statement	56
Little, John A., Deputy Regional Administrator, U.S. Environmental Protection Agency, Region IV, Atlanta, Ga., statement	60

IMPACT OF REGULATIONS ON PRODUCTION, PROCESSING, AND EXPORT OF POULTRY

TUESDAY, FEBRUARY 16, 1982

U.S. SENATE,
SUBCOMMITTEE ON AGRICULTURAL PRODUCTION,
MARKETING, AND STABILIZATION OF PRICES OF THE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Meridian, Miss.

The subcommittee met, pursuant to notice, at 2 p.m., in the Howard Johnson's Conference Center, Hon. Thad Cochran (chairman of the subcommittee) presiding.

STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM MISSISSIPPI

Senator COCHRAN. The poultry industry, as we all know, has been caught in a price cost squeeze for several years. Market opportunities have been lost because of unfair trade practices in the European Community and, at the same time, costs have continued to increase because of inflation, high interest rates, and unnecessarily burdensome regulations. If economic health is to return to this industry, we must strengthen prices through expanded markets and reduced costs. I'm convinced this can be done if the poultry industry is allowed to compete freely in world markets, inflation and interest rates are brought down to a more reasonable level, and costly regulations are reduced.

Regulations which increase cost without improving the quality and wholesomeness of poultry and egg products should be closely reviewed to determine what changes can be made. Efforts have been made to reduce Government regulations in the last year. Last year alone, the growth in new Federal regulations was cut in half with 23,000 fewer pages in the Federal Register. This will save American business and industry billions of dollars annually, some estimate as much as $16 billion. But these are general numbers. Today, we are here to look at some specifics. The poultry industry has recommended regulatory changes in a number of areas with an estimated savings to this industry of millions of dollars on an annual basis. We'll be interested in hearing the progress that has been made in implementing these proposed changes and hearing of any others which need to be adjusted or eliminated.

We want to welcome all of you to the hearing and will be happy at this point if Senator Heflin has any statement that he would like to make before we hear from our industry panel.

STATEMENT OF HON. HOWELL HEFLIN, A U.S. SENATOR FROM ALABAMA

Senator HEFLIN. Thank you. Basically, I think we all recognize the importance of the poultry industry to our agriculture and to our economy. We are interested in seeing that we do not have excessive regulation in our domestic poultry industry. A lot of issues such as overtime charges, the matter of water used, and other areas must be carefully considered. We feel like that any unnecessary regulation ought to be eliminated. We also are interested in trying to see that the inspection process is properly geared to our foreign markets and the type of poultry products that are exported get to the Middle East and elsewhere where there are religious considerations. We must insure that we don't have any unnecessary impediments here in America in preparing these products for those world markets and those particular markets such as in the Middle East.

I wish I could stay to hear all of the testimony, but I am going to have to leave. I have a previous commitment to be in Butler, Ala., at a certain time so I am going to have to leave, so I will make my remarks short. I shall, however, read and study the printed record of this hearing and will work with Senator Cochran in the effort to make needed changes in the laws and regulations applicable to our poultry industry.

Senator COCHRAN. Thank you, Senator. We appreciate so much your taking time to come here even if it is for a brief time.

Congressman Sonny Montgomery is not able to be here today but Jeanette Noe is here representing him—very capably. We have a statement from our friend Sonny Montgomery that's been given to us by Jeannette and I would like to make that a part of the record.[1]

At this point, I would like to let Bill Baker, who's chairman of the Board of the Mississippi——

Mr. BAKER. Poultry and Egg Association.

Senator COCHRAN. Poultry and Egg Association to introduce the panel that we have before us. Bill.

Mr. BAKER. Thank you, Senator Cochran. I'll let each man stand up and introduce himself and explain——

Senator COCHRAN. There's no need to stand. We're all going to be sitting.

Mr. BAKER. Starting with Dr. Walsh.

Dr. WALSH. I'm Earl Walsh, chairman of the board of Green Acre Farms of Sebastopol, Miss.

Mr. MOORE. I'm Norris Moore. I'm a poultry grower from Rankin County. I'm chairman of the Poultry Committee with Mississippi Farm Bureau and I also serve on the American Poultry Committee.

Mr. DURBIN. I'm Marshall Durbin from Birmingham, Ala. My company has facilities in seven Mississippi cities, and I'm a supporter of both Senator Cochran and Senator Heflin.

Senator COCHRAN. We're glad to see you.

Mr. SANDERSON. I'm Joe Frank Sanderson, president of Sanderson Farms of Laurel.

---

[1] See p. 45 for the prepared statement of Congressman Montgomery.

BEST COPY AVAILABLE

Mr. McCARTY. I'm H. F. "Mack" McCarty, president and chairman of the board of McCarty-State Pride Farms. Of course, I'm one of Thad's supporters.

Senator COCHRAN. Thank you, Mack. Good to see you here.

Bill, thank you for being here and introducing our panel to us.

STATEMENT OF BILL BAKER, CHAIRMAN OF THE BOARD, MISSISSIPPI POULTRY AND EGG ASSOCIATION

Mr. BAKER. Senator Cochran, I would also—if you would indulge with us, I'd like to make a statement. We are proud to have you back in Mississippi where the action's at. We would like to bring forth some facts: That Mississippi does rank 5th in broiler production; it is 16th in egg production in the United States. Mississippi produced over 300 million broilers in 1981. The income derived from this poultry and egg industry was over $400 million in the State last year. This industry employs over 10,000 people directly and from 2,500 to 3,000 farm families under a contract basis. Cars are important to Detroit; poultry is important to Mississippi. And with that, I'll pass.

Senator COCHRAN. Bill, thank you very much for being with us and for those introductory remarks. I think we probably ought to just go down the list here—we have Marshall Durbin listed first here on the industry panel—for any comments or observations that any of you would make. Each of you may make a statement to the committee and then we may have some questions to ask or discussion about your statements. Marshall.

STATEMENT OF MARSHALL DURBIN, JR.

Mr. DURBIN. Yes, sir. My comments have to do mostly with the USDA inspection service, FSIS. And, as you mentioned earlier, the industry believes that there are some modifications that can be made in procedures and the way inspection is done which will reduce the cost, both to the Government and to the industry, without in any way sacrificing quality of the product that's produced. The industry people are the last people in the world who want to sacrifice quality of the product. Most of us have our names on our products and we're proud of that.

I have five—six—recommendations that have been made by industry to the USDA and, in the interest of time, I probably shouldn't go through each of these six in detail. Perhaps I could leave a copy with you for the record.

Senator COCHRAN. That will be quite all right. We'll make that a part of the record.[1]

Mr. DURBIN. Three of the matters in general that I have some concern about and, although I'm a supporter of reduced governmental spending—I think it's absolutely imperative that this be done—I'd like to caution prudence, extreme prudence, in appropriations for agricultural research. In some years, some recent years, since the late 1960's, the world food supply has been a rather delicate balance, and the United States has been a major—and still is—a major producer of

[1] See p. 46 for the recommendations presented by Mr. Durbin.

this world food supply. We are harvesting the benefits of research—basic research in agricultural production that was done many years ago. Should we reduce this, curtail it excessively, in the future, we could be looking at an entirely different situation of the food production in the United States.

The second matter has already been touched on. That's access by U.S. poultry producers in foreign markets, particularly in the European Economic Community. The industry has filed a section 301 petition, I believe it is, with the U.S. Trade Representative and this is in process now. Ambassador Brock has been most cooperative; however, we are concerned that this may become bogged down and would ask that you monitor this to see that it's, hopefully, brought to a satisfactory conclusion.

The third matter of general interest to me is appointments of members of the National Labor Relations Board. I feel that during the previous administration at least one appointment to this board was not an impartial appointment. I don't think the man was impartial. And, after all, that's what this Board is supposed to be. And if the Senate—we would ask that they use their influence and that you and Senator Heflin use your influence to see that these appointments in the future are impartial.

That concludes my remarks, Senator.

Senator COCHRAN. Thank you very much, Marshall. We'll hear now from Joe Frank Sanderson. We're glad to have you here from Laurel, Joe Frank.

Mr. SANDERSON. Thank you, Senator. Senator Heflin. I have a prepared statement. Some of it includes some data that I had asked the National Broiler Council to gather for me, and I'll be glad to leave that for the record, Senator.[1]

Senator COCHRAN. For your information, we'll make that statement a part of the record as if all of it had been read by you, and then you may make any observations from it or excerpts from it that you care to, Joe Frank.

STATEMENT OF JOE FRANK SANDERSON, PRESIDENT, SANDERSON, FARMS, INC., LAUREL, MISS.

Mr. SANDERSON. I wish to speak just a moment, if I may, about a couple of matters other than the regulatory process and one of them is about regulatory processes in general.

All of us, of course, are familiar with the flood of regulations which you mentioned a few minutes ago that have emanated from our Federal Government over the past several years, and while the intent of these regulations in many instances was to help solve perceived problems, in many instances the effect has been to create more problems which have been very, very costly to the private business sector and, finally, to the consumer.

If we were able to measure the number of man-hours spent in promulgating and communicating and enforcing these regulations, that cost in itself would be tremendous. But the real cost to the economy—and, therefore, the consumer—is presented in efforts to comply. There

[1] See p. 47 for the prepared statement of Mr. Sanderson.

is simply no way to measure what costs are involved in the compliance procedure. And these costs, of course, have to finally be added to the consumer's food bill.

I failed to clip a newspaper column recently which I read that the promulgation of regulations decreased dramatically in 1981. I believe you referred to this just a moment ago, Senator, from some 90,000 pages of the Federal Register down to some 60,000-odd, 20,000-odd pages less. But I still submit, sir, that 60,000-odd is still a considerable amount of pages of regulations that business must interpret and spend large amounts of time and energy and effort in getting into place for compliance.

I'd like to also speak to a proposed piece of regulation—I mean piece of legislation—which could lead to further regulations that will just be unmanageable. Congressman Wampler from Virginia has recently introduced by request H.R. 5268 which would permit interstate shipment of meat and poultry products from State-inspected plants. I've written to Congressman Wampler and expressed my concern that this proposed legislation could have some very unwelcome effects. I oppose the legislation on the basis of my experience in changing a plant from a State-inspected program to a federally inspected program. Even though these State programs are supposed to be by law equal to the level of Federal inspection, I did not find that to be true, nor do I believe it possible to formulate a system of State inspection programs that would be uniform. The unwelcome effects could be economic disparities caused by different systems of inspection and regulation and, more importantly, a deterioration of consumer acceptance of the quality of poultry products presented. My colleague over here has mentioned that we don't want to do anything, or have anything done, with the good intentions of lowering costs to the extent that it might have some effect on the quality of the product as it is perceived in the minds of our customers, the consumers. This could very possibly lead to that.

Now, if I may make a statement or two about regulations and just present two or three examples. The USDA, of course, requires that each label to be used on poultry products must be approved by its Meat and Poultry Standards and Labeling Division in Washington prior to use on a product.

To obtain label approval, a processor must first submit final sketches or example for final approval. These procedures are time consuming, they're duplicative, and they're very expensive. In fiscal year 1980 alone, it was reported that USDA processed more than 104,000 label approval applications. In addition, there is frequently the absence of regulatory guidelines dictating label format. USDA relies upon some formal regulations and many informal guidelines such as its "policy book." Errors and/or misinterpretations are frequent. This label approval procedure employed by USDA discourages the formulation/labeling of new poultry products. Furthermore, it delays the transaction of day-to-day business of unprocessed poultry and sometimes results in the loss of a sales contract because of delays in getting the labels approved.

In my opinion, there is no sound reason that USDA should not adopt new labeling policies which provide for a guidelines handbook and then allow the processor to design and use labels if those labels

92-836 O - 82 - 2

were in conformity with the requirements of that handbook. USDA should adopt a program where a company could utilize a standardized label without the necessity of prior approval. I understand that USDA has this problem under study at the present time. I personally, however, have communicated with USDA personnel regarding the problem for more than 20 years without seeing any significant movement.

Another problem which we in the poultry industry experience is one we refer to as "over-inspecting." In April 1981, USDA implemented a new inspection procedure that's referred to as "modified traditional inspection" which converted four-inspector broiler slaughter inspection lines to three-inspector lines. The first inspector on this line only visually inspects the outside of poultry through direct visual examination and with the aid of mirrors. This inspector does not touch or handle the poultry. Each inspector is provided two plant employees called "trimmers" who remove slightly damaged or unsightly portions of the poultry at the inspector's direction. Since this inspection is virtually all esthetic, it could easily, and as efficiently, be performed by the trimmers themselves, thus eliminating one Government inspector from each line.

In testimony before the Senate Appropriations Committee in March 1981, USDA said that in fiscal year 1980 the Government saved approximately $3 million through the implementation of the new inspection procedure. USDA, according to figures provided me by the National Broiler Council, currently operates 320 modified traditional inspection lines. A USDA poultry inspector earns approximately $18,000 per year. Now, the elimination of 320 positions, one inspector per line, could result in a savings to the Government of $5,760,000 annually.

In its Senate Appropriations Committee testimony, USDA also estimated that poultry plants had realized a 16-percent increase in productivity due to the implementation of modified traditional inspection.

I strongly recommend that USDA eliminate the requirements for an outside inspector on all broiler slaughter modified traditional inspection lines. This leaves a total of two inspectors per line to examine young chickens with no lessening of consumer protection.

USDA poultry products inspection regulations require continuous bird-by-bird post mortem inspection of all poultry. In addition, all other plant operations—such as pre-op sanitation, cut-up, packaging and so forth—are also performed under continuous USDA inspection and supervision. USDA utilizes a system of checks and balances via supervision structure. Inspection problems can be handled at the local level, the area level, the circuit level, or the regional level. Failing a resolution of that, the Government or business can appeal to USDA at the Washington level.

For some years now, USDA has been utilizing an in-plant compliance review group, the duty of which is to periodically visit poultry and meat slaughter and processing plants and rate—give a number rating to their effectiveness. This rating system since 1978 has been used to publicize the names of plants not operating under conditions satisfactory to USDA. These periodic, unannounced inspections are objectionable not only to plants who have continuous inspection during every movement of operation, but to in-plant USDA employees as well.

The review program has engendered extreme animosity in USDA field personnel.

Another impact is that USDA inspections in plants and plant operator/employees would realize a greatly increased sense of duty and a morale boost in the absence of this totally unnecessary compliance program. Plant productivity would increase as well, I'm convinced.

I'd recommend, then, that USDA totally eliminate the in-plant compliance review group. The current supervisory structure is capable of handling any compliance situation. We have circuit riders, we have an in-plant veterinarian who is in charge of the plant, and USDA personnel in the plant. If they feel that something is wrong, then they can call in other supervisory personnel to handle it. This is simply a checkup system that just engenders a lot of hard feelings and does nothing whatsoever to increase the quality of the poultry going out of the plant. It simply takes away from productivity. It's my understanding that in a recent reorganization, USDA has dropped the rating system that I mentioned a few minutes ago, but that the in-plant compliance review group still exists and still will operate.

Mr. Chairman, these are but a few of the very serious regulatory problems that people and companies within our industry experience from day to day. There are literally thousands upon thousands more which have a severe impact on the productivity of these companies. We appreciate the opportunity to cast some light upon the effects of unwise and unneeded regulatory actions and we sincerely hope action will be taken to lessen these unneeded burdens upon our industry.

Thank you.

Senator COCHRAN. Thank you very much, Joe Frank. We appreciate your being here and adding your statement to this hearing.

Mr. Mack McCarty, we will hear from now. McCarty-State Pride.[1]

STATEMENT OF H. F. McCARTY, PRESIDENT, McCARTY-STATE PRIDE FARMS, INC., MAGEE, MISS.

Mr. MCCARTY. Thank you, Senator. I want to discuss two items which deal with regulations of Occupational Safety and Health Administration, OSHA, one regulation which has to do with the Employee Retirement Income Security Act of 1974 referred to as ERISA, and one which deals with the Food and Drug Administration, FDA—one practice of FDA.

The first problem has to do with a requirement of OSHA that plants—all industry—shall institute by—what is it?—August 15 of this year?—a hearing testing program, provide hearing protectors and training for all of the workers in the plant who might in some way or other be affected by the noise therein.

First of all, I was called this morning by an employee of another firm who understood that I was going to discuss this matter. He indicated that there will be another hearing in Washington next month—during the month of March. OSHA has one planned and that regulation may be changed again. So he doesn't know—he's in a quandary about compliance, setting in motion activities which will cause his company to be in compliance by August 15 if those regulations may be, in fact, changed by sometime next month.

[1] See p. 49 for the prepared statement of Mr. McCarty.

In a nutshell, the regulation requires testing of all employees in the plants that are exposed over an 8-hour period to noise levels of 85 decibels and above. Presently, I believe the level is 90 decibels and above. In order to comply in our plant, we'll have to buy testing equipment, or testing cabinets; we'll have to train people to do the testing; and then if anyone does not meet those standards, of course, we'll be subjected—or may be subjected—to OSHA violations, or OSHA fines. It's estimated that it will cost right at $100 a plant per worker to be in compliance with this new regulation. In Mississippi, there are 14 processing plants. If we use a figure of 275 average employees for those plants who might be affected by this regulation, the cost of compliance will be right at $400,000 in the State of Mississippi. In the case of our own operation, it will be between $50,000 and $60,000.

We probably have all set in motion procedures to be in compliance with the regulation as it has been promulgated last year by August 15th of this year. We think that the mandatory feature of the regulation is unnecessary and not justified, however. It would be better if the recommendation were voluntary. Certainly, we wouldn't be in a position of—we would conduct those tests—should be encouraged to conduct those tests, to be concerned about the hearing of our employees, but we wouldn't be subject to fines or possible violations of that regulation.

Incidentally, no plant in Mississippi at present will qualify under the 85-decibel regulation. And it's highly improbable—because of the fact that USDA recommendations or regulations require hard surface walls and stainless steel equipment, it's highly improbable that we'll be able to qualify at the 85-decibel level.

Another regulation which I wish to discuss having to do with OSHA has to do with the requirement that employers have to keep records for 30 years of any employee who is exposed to a "hazardous substance." First of all, the matter of keeping records for 30 years is ridiculous. We'll have to build warehouses to keep those records if we attempt to do so for all of the employees involved. Another way of handling that situation is, if it is necessary, then there should be a strict interpretation of what constitutes a hazardous substance, and, on that basis, we do not believe that our broiler processing plants would be affected.

The third matter which I wish to discuss has to do with reporting and disclosure requirements under the Employee Retirement Income Security Act of 1974. Employers offering retirement benefit plans are required to file with the Secretary of Labor extensive documents, including a plan description, annual report, financial statement, and a report of an independent qualified public accountant. In addition, much of this information is to be disclosed by the employer to the plan participant.

While actual cost figures are not available, employers could save dozens of hours weekly presently spent updating ERISA records. The cost of independent CPA reports would be saved, as well as cost involved in annual publication of descriptions, financial statements, and the like.

The reporting and disclosure requirements under ERISA comprise 59 pages. They're extremely detailed; they're confusing; they're oner-

ous. It's recommended that these regulations should be simplified and reporting requirements greatly reduced so as to be easier to understand and less burdensome on the employers obliged to comply.

I asked our employee relations man to comment on this statement this morning. Let me read back to you what he had to say.

MEMORANDUM

I guess the thing that really bothers me about the Employment Retirement Income Security Act of 1974 is that after the reports are prepared, documents submitted, and Summary Annual Reports go to the employees, nobody is any better off. In fact, employees do not understand the SPD's found in their employee handbook or the Summary Annual Reports submitted to them annually. The required formats of all these reports are such that the average employee has trouble reading them, much less understanding them. The day that these reports go out to employees you can bet the trash cans in every office complex are filled with them. All employees really want to know about any plan is what their balance is today or what their earnings were last year or what can they expect their contribution to be for this period. They want to know that they are adequately covered by any of their several insurance plans and that their claims are going to be paid fairly when they are submitted. I guess the gist of my argument is that employees do not want all of these documents, do not normally read them, and do understand them if they do read them. I would also be willing to bet that not 2 percent of all the documents submitted to the DOL are reviewed, much less studied in detail. Hope these comments will be of some help to you in your meeting.

SPECIFIC DOCUMENTS REQUIRED

1. Summary Plan Description for each plan.
2. Annual Report—5500's for each plan.
3. Summary Annual Reports for each plan.

The SPD's and 5500's go to Dept. of Labor. Summary Annual Reports go to employees.

SPECIFIC COSTS

1. Public accountant's report;
2. Employee Consultants fees;
3. Attorney's fees;
4. Printing costs;
5. Executive time;
6. Specific insurance coverage:
   a. Fidelity bond requirements, and
   b. Fiduciary liability requirements;
7. Bank Trustee's fees.

Mr. MCCARTY. And he's jotted down here for me to remind you of the documents that are required. First, a summary plan description for each plan. That's every benefit program in the company. If we have six benefit plans, then a summary plan description of each of those plans. An annual 5500 report for each plant and a summary annual report of each plan to be distributed to the employee.

The costs involved are public accountant's report, the employee consultant fees, the attorneys fees, the printing cost, the executive's time, his time—the man that I pay—specific insurance coverage, a fidelity bond which is required in this situation, and fiduciary liability requirements which may be involved. Finally, a bank trustee's fee which is involved has to be paid too.

He says it's a lot of baloney and that the employees are really not interested in it; and that the Department of Labor probably doesn't use the report.

The fourth matter which I wish to discuss involves the Food and Drug Administration and new drugs which affect the broiler industry.

The data requirements for approving new animal drugs and other feed additives are complex and unclear. They're expensive to fulfill and the process of obtaining a clearance is at times unduly prolonged. As a result, there has been a decline in the productivity of research and development effort in the animal drug industry and increases in efficiency of animal production have been curtailed due to this decline in this effort. These effects ultimately show up in the market as increased prices consumers have to pay for food.

As a result of the requirements for approving new animal drugs and the regulatory procedures employed by FDA, the costs of developing and testing new animal drugs have risen sharply, and the rate of approval of new drugs has been cut in half. The number of new drugs approved from 1965 through 1967 was 10. Between 1975 and 1977, it was just half that amount—five. The average cost in deflated dollars to obtain approval for new animal drugs has increased from $13.8 million in the 1965–67 period to $36.4 million in the 1975–77 period.

The result is that major drug companies are just not interested in committing these amounts of money to the development of a new drug for animal husbandry.

In addition, the regulatory procedures employed by FDA discourages the development of both major drugs for minor species and minor drugs for major species of animals. The ultimate effect would be a failure to utilize effectively the available chemical and genetic potential that will be needed as new sources of productivity in the future.

We recommend that the process of approving new animal drugs could be accelerated and made more efficient if the information to be required were clearly specified in writing at the beginning of the process and if some allowance was made for the changes in requirements that are introduced after the manufacturer has committed his resources to obtaining the information specified initially. Changes in these requirements occur with changes in personnel in the Food and Drug Administration. A new man on the block may decide that the requirement for testing procedures need to be increased. So after the drug company has started its research, or instituted its program, someone else comes along and increases the requirements.

We understand, on the other hand, that present FDA leadership recognizes this problem and is moving to improve the situation. We welcome that consideration of the poultry industry and the poultry producer's need in this matter.

I talked with another of my people about this problem and he used this illustration: In the poultry industry now, we have two coccidiostats. A coccidiostat is a drug used in feed to control coccidiosis in poultry, and without it, we couldn't produce poultry as we do today. There are two coccidiostats available, two primary ones: Avatec and Coban. One of the major companies—I believe it's Merck; I'm not sure—has been working for 2 years trying to get a new coccidiostat approved. They don't know when it will be approved. This coccidiostat has been in use in Great Britain for the past 3 years. And the drug company involved—I think it's Merck; I'm not sure—Merck or Dow—doesn't know where to turn in meeting the requirements, or meeting the cri-

teria, nor do they know how long it will be before they have approval of the drug.

Senator, I appreciate the opportunity to bring these matters to your attention and to the attention of this group.

Senator COCHRAN. Thanks very much, Mack. I appreciate having your comments and observations.

We'll now hear from Dr. Walsh, Dr. E. C. Walsh, of Green Acre Farms in Sebastopol, Miss.[1]

STATEMENT OF DR. EARL C. WALSH, CHAIRMAN OF THE BOARD, GREEN ACRE FARMS, SEBASTOPOL, MISS.

Dr. WALSH. Senator, I will restrict my remarks to those of a revision for the grading service to give us a grade A export product, which does not go to the domestic market so that we might be more in line with the competition that we face from the EC countries, particularly France, and from Brazil. I think you have related to the subsidies that have been paid and literally have cut us out of the market.

By way of explanation of my having this topic, my company, from the standpoint of production, has been the largest exporter of poultry of any company in the United States. However, we have been forced to change our marketing program because we simply cannot compete any longer. We are hindered, I think, from several different sources, but particularly one; I have gone to Brazil and France myself to see if they were doing something that were not doing in order to be able to be more competitive in the export market, and I found that after the birds were inspected for wholesomeness, the rest of the birds that went down the line simply went into a bag and from there into the freezer and were given to the market of export.

Now, nobody, as has been related to by some of my colleagues here, is interested in getting anything that's unwholesome, but it is a matter of reality that we cannot get many more than 50 percent of our birds down the line without somebody cutting on it. And when this happens, we bring prospective buyers in from the Middle East and they simply become hysterical almost. They say, "Don't cut the bird. Don't cut the bird. We don't want the bird cut." We explain to them that we are simply taking off this little bruise or that little so-called breast blister. They say, "We don't want that done. Leave the bird alone." Well, if we were able to compete on the basis of the French and the Brazilians with a grade A—they want a "Grade A" on the bag. I don't care whose "Grade A" it is. They want a "Grade A" on the bag. And if we could do that, we could cut our costs 3 or 4 cents a pound.

But as it stands today, we simply cannot compete with the French and the Brazilians when they run almost 100 percent of those birds that pass inspection down that line that go into a bag. Now, there's nothing unwholesome about the bird that they're running down there because you do get bruises on birds when you're hanging them in the shackles. You get them when you're dumping them out of the crates. A bruise is nothing more than a broken blood vessel and has nothing to do with wholesomeness of that meat. And yet we have to take every one of them off.

[1] See p. 51 for supplementary material inserted by Dr. Walsh.

I'm not recommending or suggesting that we change anything for the domestic market. We have a clientele that simply has been educated to the fact that you just cut everything off. We call it "unsightly things" off of birds. But if we're going to be competitive in the export market, which it is my understanding we geared up to become exporters 5 or 6 years ago and we simply have had to abandon that thought with a great deal of loss because we can no longer compete because the regulations will not allow us to do so.

Now, the subsidies, as you are well aware, are things that kill us in the marketplace also, and we need some attention paid to that. So I will not go into the grading service any further regarding the exports. I do have some comments that I will leave with you.

I have one other thing that I would like to comment on that also deals with a specific problem with my company and that is a special problem regarding the school lunch product. We, because we had to abandon our export market this past year—I think I am correct in saying that we were the largest producers of school lunch in the country. And we had, back in December, three loads that were refused because of a condition called excess weepage. And if I might take a little time to go over the procedures as they took place to point out where I think there is a fallacy with the grading service and the inspection service.

We produced the product in our plant at Sebastopol and shipped it to Crystal Springs for freezing. It was passed by inspection from the standpoint of weight and from the standpoint of moisture and from the standpoint of packaging. The grading service approved it as well as the inspection service. It arrived in Crystal Springs, was accepted and frozen. When we were ready to ship the product—and I cannot verify this, so I am making a statement only as hearsay—we understand that a regional director assistant from Arkansas was having a problem in his area and he came to Mississippi simply looking for that problem. And they turned down three loads of poultry because of excess weepage.

Now, I want to reiterate it had been accepted. It had been inspected. The grading service had accepted it from the standpoint of moisture, from the standpoint of packaging, from the standpoint of every regulation. And, as you know, anytime a product sets—if you've ever thawed out a steak or a chicken after it's been frozen, you know you'll get water in the package and it will be bloody water as it thaws out. And you're going to get some. Now, the regulations say that it shouldn't be more than an occasional pocket and a thin sheet of clear to pinkish ice. How do you judge that? I think that is purely a personal opinion thing. While one grader had graded it according to the moisture content of the product, he had graded it according to the packaging and all the regulations, and another one refuses it because it doesn't appear to look right. They penalized us 3 cents a pound on that, and if I might quote from a letter from Pierre Bouche, in his remarks regarding this product, he says:

> We accepted the three cents—which we did because we had $60,000 tied up, costing us a cent a pound per month storage and we had no place to go with it if it was turned down. And he says, "Also, we were advised by the Grading Branch that product no longer meeting USDA Grade A requirements be ause of the weepage would meet the requirements for USDA Grade B. The difference between the market value of USDA Grade A and USDA Grade B is three cents a pound. This difference was the basis for the amount of the discount.

I don't know—it's been my impression from the markets that I've ever listened to, that a grade A and a grade B is a cent to a cent and a half a pound. Grade A to grade C is 2½ to 3 cents a pound. We think that we have a legitimate complaint and we would like some help on that, because we think we have complied with the law.

We have another letter from the grading service which says that it has been brought to his attention that we are holding products 4 or 5 hours in the cooler before putting it in the blast freezer and that this must be corrected before we get into another situation as he relates to the three loads. The regulation gives you 48 hours in which you may hold the product before putting it to blast as long as it reaches zero degrees within 72 hours. So we certainly haven't been out of compliance with any of the regulations. So I think it's a situation where the grading service simply has overstepped their bounds and cost us in product and the extra cost of some $3,700.

Senator, I know that, as has been stated here by other people on the panel, we have many problems due to regulations of which I think many of them are just good commonsense. We need to sit down and talk about them, and I think that we could come to some solutions if we can get the proper people involved and not have a lot of buck passing, but we can sit down and discuss the problem on a realistic basis. I happen to be one that thinks we have overdone this thing of wholesomeness. If any of you are in my age bracket, you know that we ate chicken off of the yard that didn't approach anything that ever went through a plant and we are still here; it hasn't affected us in any way other than to keep us alive. So I think that we have simply overdone this thing of wholesomeness, and we need to take a realistic look at some of the regulations that just simply tie our hands and increases cost. I think if we could change some of the things that govern school lunch, I think it would be more cost effective. For instance, we could ship it in a larger box—40 or 50 pounds to the box. We could increase the amount of the load which is restricted to 36,000 pounds. We are not able to utilize today all the weights that one truck could carry versus another because it's restricted to a certain amount of poundage. We should have a plus or minus so that we might use the transportation as effectively as possible.

I, too, appreciate the opportunity of being here and I trust that we will be able to look at some of these things with a realistic view. Thank you.

Senator COCHRAN. Thank you very much, Dr. Walsh.

We will now hear from Norris Moore, producer and chairman of the Farm Bureau Poultry Committee, from Pelahatchie. Welcome, Norris.

STATEMENT OF NORRIS MOORE, CHAIRMAN, POULTRY DIVISION, MISSISSIPPI FARM BUREAU FEDERATION, PELAHATCHIE, MISS.

Mr. MOORE. Thank you Senator Cochran and members of this panel and guests who have gathered here this afternoon to hear what we have to say.

I am sincerely honored to have been extended the invitation to discuss some of the problems facing the poultry industry today.

I am Norris Moore, chairman of the Poultry Division of the Mississippi Farm Bureau Federation. I also serve on the Poultry Advisory

92-836 O - 82 - 3

Committee of the American Farm Bureau Federation, and I have been in the chicken business for 34 years, producing broilers. After serving in the U.S. Navy in World War II, I came back home to the farm and built my first broiler house in 1947. At that time, most of the chickens produced in central Mississippi were shipped live to neighboring States. In the 1950's, the first modern processing plant in Mississippi was built in Jackson at the Farmers' Central Market and was operated by Swift. During the 1950's there were several processing plants built in central Mississippi which brought about a complete change in the industry. Processors, seeing the need for steady, constant supplies of birds to operate their plants at the highest efficiency, offered growers very attractive contracts. By the late 1950's, there were very few broiler growers selling on the open market. In 1960, I changed from "an open market" grower to a contract grower. The reason for my changing: There were no open markets left.

In 1961, we saw what uncontrolled growth in the industry could do. Grower payments were reduced from $100 per 1,000 in 1957 to as low as $30 per 1,000 in 1962.

The embargo imposed by the President in 1979 triggered one of the worst depressions for the poultry industry in history. At a time when much effort had produced good export markets for broilers and other poultry products overseas, the embargo was a crippling blow which cost the industry multiplied millions.

The regulation by EPA, requiring the cleanup of the waters by 1983, has caused much concern for poultry farmers. You are aware, I'm sure, that the manure from the house has to be removed occasionally. In the past we have spread the manure on sod pastures. We have not been able to come up with a way to keep from having some runoff. Incorporating into the soil by plowing is not practical because of cost and would destroy the pasture.

Fire ants are a serious problem with poultry growers. This pest likes to build their mounds on the south side of the houses. This causes severe loss of baby chicks when they are first placed in the brooding houses. The ants go inside the brooding area and feed on the ground grain in the litter or from the containers holding feed for the chicks, then latch onto the young chicks. I would like to request that EPA grant an immediate conditional label for ferriamicide. There is a dire need for an effective, safe, and economical bait to control the imported fire ant. The fire ant population is increasing rapidly and poses a great threat to children, the elderly, livestock, wildlife, and causes personal trauma and financial loss.

Much has been said in recent months about animal rights. This thing started in Europe several years ago and has caused much concern among poultry, veal, pork, and beef producers. A bill has been introduced in Congress to set up a committee called the Farm Animal Husbandry Committee (H.R. 305). The committee would consist of 16 members appointed jointly by the chairs of the House and Senate Agriculture Committees. Members would include four farmers or other agricultural producers (two involved in intensive husbandry, two who are not); four representatives of farm organizations; two consumer group representatives; two animal welfare advocates; one agricultural engineer; one animal scientist; one ethologist (science of forming of human character); and one veterinarian. The advocates of this legisla-

tion make comparison of animal rights to human rights. The American Farm Bureau Federation adopted in its recent convention a sensible resolution:

> We oppose any attempt to ascribe legal or constitutional rights to animals. Such efforts serve to dilute the concept of human and civil rights.
>
> Certain groups in society are concerned about the amount of "cruelty" they believe is involved in raising livestock and poultry in confinement. Laws have been enacted in several countries that limit or prohibit the raising of livestock and poultry in certain types of environments. No element of society has more compassion for poultry and livestock than the producer. This is best exemplified by the high levels of production and low mortality rates being achieved in modern livestock and poultry operations. We support an aggressive, comprehensive education program presenting the facts to the general public.
>
> We oppose any legislative or regulatory action which would tend to prohibit good poultry and livestock husbandry practices and increase cost of food to consumers.

Gentlemen, this is a serious matter and I urge you to oppose any attempt to humanize farm animals.

There has already been appropriated $380,000 by USDA to make a study of farm animal stress. This was announced by Agriculture Secretary Block after a meeting with representatives of the animal welfare movement including John Hoyt, president of the Humane Society of the United States. ("Feedstuffs," Aug. 24, 1981.)

The regulation by the Federal Reserve to set interest rates at an impossible figure is bankrupting the Federal Government as well as the small farmer. There are hundreds of farmers throughout this State who would be in good financial condition had they been able to get loans that were reasonable for the last 3 years. One of my neighbors borrowed money from one of the lending agencies to build some poultry houses at 8-percent interest, just 3 years ago. By September 1, 1981, the rate had gradually increased to 11¾ percent. This amounts to a $3,750 increase on a $100,000 loan annually.

In the broiler industry interest represents 25 percent of the cost of producing a broiler. That includes the direct and indirect interest embodied in corn and soybeans—quote from January 1982 issue of Broiler Industry magazine. Any factor entering into the cost of producing broilers, sooner or later will be reflected in the grower income.

A major part of the national debt is the outrageous interest payments. It is my honest opinion that it is the obligation of the Congress to correct this injustice, by whatever means necessary. I think the Congress should set a maximum interest rate the Federal Government could pay for money.

Mr. Chairman, as we talk about regulations, it is important to point out that any time regulations are imposed, some will benefit and it will be detrimental to others. I realize that we must have regulations to protect the health and safety of our people, but the impact a regulation may have must be weighed carefully to insure that the solution will not be worse than the problem. Direct or indirect cost caused by regulations will ultimately affect the farmowner growers cost of production. There is no provision for the farmowner grower to recover added cost incurred by costly regulations.

Again, Mr. Chairman, I appreciate the opportunity to appear with this group to discuss some of the problems we have in the poultry industry.

Senator COCHRAN. Thank you very much, Norris. I appreciate your being here and helping us with that very informative and pertinent statement.

I think all of the statements taken as a whole indicate the reason why it's important for this hearing to have been held. We have agency representatives, heads of agencies in some cases, who are here with us today from Washington and Atlanta regional offices. It is these questions that we hope to be able to pursue with these representatives in the next panel.

In connection with one of the statements made by Dr. Walsh about the impediments to export, I'm particularly disturbed about the regulations, or processes of inspection, that actually impede the sale of U.S. grown, Mississippi grown, poultry products in overseas markets. I don't know whether it was heard by those here, but I've come across statistics that showed for every billion dollars in export sales of agricultural products, 26,000 jobs are created here in the United States. We have a serious unemployment problem now, and I think one of the key elements of an economic recovery program is the expansion of export sales. Here we see an example of a domestic company prepared and equipped to compete in foreign markets who's unable to do so effectively because of processes, procedures or rules of our own Federal Government. This, to me, has to be set straight if we are to ever hope to recover economically. This is a complex world we live in. Our competitors are engaged in heavy export subsidies that have undercut our ability to compete in many parts of the world, and then to have our own Government appearing to be as much an enemy as our competitor is a little tough to take. I think there are changes that have to be made in the way that we go about developing a relationship between Government and industry to help solve these problems like unemployment.

I recall one time when you were in Washington, Dr. Walsh, talking about some other problems, there was one example you gave me of wanting to sell some chickens to somebody overseas with feet on them, or somewhere they wanted them for the orientals.

Dr. WALSH. We wanted them for this country.

Senator COCHRAN. In this country with feet on them.

Dr. WALSH. Some Chinese wanted them.

Senator COCHRAN. But you couldn't do it because our inspectors wouldn't allow that kind of bird to be sold. Is that still a problem? Is that still the situation?

Dr. WALSH. Well, I don't have another order. I lost that one.

Senator COCHRAN. How much did that cost your plant to lose that order? Do you recall?

Dr. WALSH. I do not recall, Senator. I couldn't give you a figure on that.

Senator COCHRAN. I wonder are there any other examples that any of you know about of instances where sales abroad have been lost or made more difficult as a result of regulations by our own Federal Government, or inspections, or processes, or procedures of our own Government. Are there any other examples that any of you have other than the one cited by Dr. Walsh?

Well, we know that the industry is in a difficult situation now, and we want to try to identify ways to help improve the chances for surviv-

ability and maintenance of a healthy industry. Poultry is second only to soybeans in the dollar volume of sales as an agriculture industry in Mississippi, and Senator Heflin noted that in Alabama it was the No. 1 agriculture activity from an economic standpoint. That illustrates how important it is. We're the fifth largest poultry producing State in the Nation. I think Bill may have mentioned that. So it's extremely important for us to get a handle on some of these problems.

Mr. SANDERSON. Senator, may I make a statement about that, please?

Senator COCHRAN. Yes, Joe Frank.

Mr. SANDERSON. There is a section 301 action under GATT now—General Agreement on Trade and Tariffs—that you, I know, have been following and a number of other people have been following, and it's vitally necessary, if we are to be a factor in the export market, that our people understand that we have to be treated fairly as to access and also as to subsidization of various countries, particularly in this instance, the European Common Market and Brazil. They have to understand that just because the United States is big and just because the United States is powerful, we also have to be treated fairly and that they can't treat us unfairly. And we're sitting looking at a situation now—and Dr. Walsh probably knows more about this than I do, but there are four processing plants in Normandy, France, which are set up for the total purpose—they operate for the total purpose of producing and processing and shipping poultry to the Middle East. They gain that Government subsidy. They allow them to put shipments together and ship them on chartered vessels in order to reduce their freight costs, where, you know, it takes a tremendously large amount of product going in to be able to do that. The primary reason that they can exist and do those things is because of that Government subsidy.

Now, I'm not asking for Government subsidies. I want that understood. I just don't want to compete on that basis. But neither do I want our people who are supposed to represent us in our Office of Trade Relationships to give up on that thing and not trade tough. The last time we had one of these chicken wars we wound up with the recognition, I believe, of not being very important to the export business in the United States because, if I remember correctly, there was a little bit of tariff put on perhaps some Volkswagen buses or something of this nature.

Dr. WALSH. Certain types of wine.

Mr. SANDERSON. Certain types of wine which they don't import into this country anyway. We need to stand up and say to our trading partners and to our friends in the West and everywhere else "there's just so far you can go without retaliation," and we need to make that stick this time.

Senator COCHRAN. Well, I think you've hit upon a very important point. Just this last week, we had a delegation from the European Economic Community in Washington, the Ambassador from the EC and a Commissioner. We had a meeting in our Agriculture Committee offices and a few of us Senators were there, our Trade Representative, Bill Brock, was there, and the Secretary of Agriculture was there, to impress upon these representatives the seriousness of the situation and how strongly some of us felt about these practices. I mentioned specifically the 301 petition that had been filed on account of the export

BEST COPY AVAILABLE

subsidies and the Middle East trade. We also brought up a couple of other specific items. I'm convinced that we have a new feeling of urgency in our Government, in the Congress, and in the administration to join together with the industry to press the case. The history of these complaints before the Geneva negotiators under the General Agreement on Tariffs and Trade has been long, drawn-out proceedings and, by the time you get to the end of the process, you've forgot what the problem was to begin with. I think steps are being taken now to accelerate that process, to get an early hearing and to get some action, which is the ultimate aim.

In addition, you need to know that because of these strong feelings that exist now, legislation has been introduced in the Senate—one bill in particular by Senator John Danforth of Missouri called The Trade Reciprocity Act, which basically would make our Government policy one of retaliation. He's chairman of the International Trade Subcommittee of the Senate. If relief were not obtained over clearly inappropriate, illegal, erection of nontariff barriers to trade or unfair practices in international trade, then it would be our policy to take retaliatory action. This would be ingrained in the law if that bill is passed. Others in the Senate have joined in sponsorship of that bill. That's an indication of the new attitude.

I think, also, the fact that Japan has come up with some changes in its procedures and rules designed to open up its markets more to United States and European and Australian trade is another indication of the result of pressure that's brought to bear and tough negotiating in behalf of our export community here in the United States. That is an important point, and avenues and alternatives for action are being explored and examined. I'm encouraged that we're going to see a new era of export mindedness and tough negotiating, and even retaliatory action where that's appropriate. Not with any aim to getting off a chicken war or a trade war or being unreasonable, but simply insuring that our other trading partners and friends around the world are fair.

Mr. DURBIN. Senator, that's welcome news because it's my opinion that chickens can be produced in the southeastern part of the United States, shipped to any place in the world, be cheaper and of higher quality than they could be produced any place in the world in the absence of restrictive import duties, and certainly if we had the same inspection and grading procedures that the country that received our product had. So we're sitting in a good position to take advantage of that if we can get some of these things straighened out.

Senator COCHRAN. That's good to hear.

Dr. WALSH. Senator.

Senator COCHRAN. Yes, Dr. Walsh.

Dr. WALSH. In regard to the magnitude of the problem that we're talking about with subsidy, I believe in the year 1980—there are only three French exporting companies, but those three companies were paid over $100 million in subsidies in the year 1980 by the French Government. So if you just do a little arithmetic, you can see the magnitude of the problem we are facing.

Now, the Brazilians, it was my understanding that all the Brazilians commit a percent of their production to export, and the Government in turn lends them money far below the going rate and they in turn can invest that money, and the difference between what they pay and what they get for it amounts to about $110 per metric ton, which

is about 5 cents a pound. The French, on the other hand, they vary theirs up and down the ladder so fast you can't keep up with it, but some 16 cents a pound.

So we do have a tremendous problem, but, as Marshall has pointed out, if we could just get the same type of inspection—and I'd like to make a recommendation, if I may, at this time, that the Secretary of Agriculture appoint a committee that would go to France and Brazil and see firsthand what they are doing, that we might be able to compete on the same basis that they are putting out the product.

Senator COCHRAN. I appreciate having that observation. We'll check into it and see what the likelihood is of our being able to get that done.

I was just checking with Wayne Boutwell, whom many of you know is a member of my staff, special assistant on agriculture matters, to see what the status of the ferriamicide labeling was that Norris Moore brought up. The fire ant situation, this is a terrible problem, I know it affects the poultry industry and everyone in the Southeast very seriously. The other day we were able to get almost all of the Senators from the Southeast to join me in signing a letter to the head of the Environmental Protection Agency reminding him of the emergency nature of the problem; that we've got to have an opportunity to move on eradication. The answer, in our judgment, is an approval of the ferriamicide for fire ant treatment. I'm hoping that continued pressure, reminding, and urging, trying to get language in legislation and appropriations bills, will help us get to the point where we can see a workable and safe control program for that pesky pest. We're aware of that, and I'm glad you brought that up.

Mr. MOORE. Would you speak there a little bit on this Clean Water Act? Do you know what I'm talking about?

Senator COCHRAN. Yes. The Clean Water Act is an act passed by Congress, being administered by EPA. There is a review of it occurring now, and there are some possibilities for amendment of that law. I don't know just off the top of my head what the likelihood would be for any changes in the effluent requirements, or runoffs, that you refer to having a problem with. It does present some very serious practical problems for agriculture generally, and the poultry industry specifically. We're going to be working to try to balance the interest that we have in having clean and safe waters, but at the same time recognizing our economic interests also. It's wonderful if you're healthy, but if you're healthy and starving to death, you know, you're not much better off. So we've got these balancing and competing interests to weigh, and I hope it can be worked out so that we can meet some of those problems that you identified.

Mr. MOORE. I believe the article, as it stands now, is that it's got to be drinkable by 1983, isn't it? Isn't that the—you know, the stream is to be cleaned up to the point that if you wanted to get down on your belly and get a drink of water out of it, you know, it's got to be drinkable.

Senator COCHRAN. That's a little ridiculous. Maybe more than a little ridiculous. Well, it's the commonsense that you refer to that we need to have embedded in some of these laws and rules. We'll be working to insure that that's done, and revised if necessary.

You've been very good and helpful to come and testify in this way before the committee. I think now we'll hear from the Government

panel and, if there are any observations in closing that anybody would like to make, then those comments would be welcomed at that time.

We are very happy to have with us a number of Government representatives here today: Dr. D. L. Houston, who is Administrator of the Food Safety and Inspection Service at the Department of Agriculture in Washington; William Gordon, who's the Regional Administrator of the Department of Labor, Occupational Safety and Health Administration, in Atlanta who's accompanied by Dr. Alice Suter, director of health standards programs; we have Dr. Arthur Hayes, Commissioner of the Food and Drug Administration; and Alex Little, who's Deputy Regional Administrator of the Environmental Protection Agency from Atlanta.

The committee appreciates very much your attendance at its hearing today. We welcome you to Meridian, Miss., Dr. Hayes. We're glad to have you down here in the Magnolia State where some of the problems are met head on every day. We hope this is a healthy and beneficial experience for you, as it is for me, to find out some of the difficulties in applying Government rules and regulations in the day-to-day world and trying to make a living while doing so.

We are going to proceed as we did when the industry panel was here. We'll go down our list here and ask you to make your statements about the general topic that's been outlined for the hearing. If you have prepared statements, we'll incorporate all of them in the record, and then you may summarize, if you care to, or make such other statements as you would like. Following that we may have some questions to direct to each of you.

Let's start with Dr. Hayes who is Commissioner of the Food and Drug Administration. Dr. Hayes, welcome.

STATEMENT OF DR. ARTHUR HULL HAYES, JR., COMMISSIONER OF FOOD AND DRUGS, FOOD AND DRUG ADMINISTRATION, PUBLIC HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Dr. HAYES. Thank you, Mr. Chairman. It's good to be in the Magnolia State and in Meridian. It's considerably warmer here than it is at home, and I'm delighted to be here. I thank you for providing this opportunity to testify on Government regulations that relate to the poultry industry. I thank you for allowing my statement to be entered into the record,[1] and perhaps in just a few moments, I can highlight some of my thoughts and then be responsive to your questions.

I had the opportunity last December of spending some time in Gainesville, Ga., where I was a guest of the Southeastern Egg & Poultry Association, so I had an opportunity to visit with the poultry producers there and to learn a little bit about the industry while walking through the plants and seeing the chickens and learning some of the problems.

When I was there, I was asked a question that I think applies not only to the poultry industry, but to all of those industries which the Food and Drug Administration is responsible for. The question is:

[1] See p. 54 for the prepared statement of Dr. Hayes.

What is the most important problem confronting the poultry industry and how does FDA fit into that problem? In my judgment, the most significant problem for all of us—industry and the Food and Drug Administration—is brought about by today's economic conditions. I believe we are all looking for ways—raising out antennae, if you will—to relieve the economic pressures of high interest rates, high fuel costs, transportation costs, high labor costs, and all the other costs that are involved. Indeed, one of the economic pressures is the increasing costs of Government regulations, which in this case involves the Food and Drug Administration and its approval of safe and effective new animal drugs and feed additives. Because time is money in our economy, the time for approval is obviously an economic consideration.

We at the Food and Drug Administration, and especially my colleagues in the Bureau of Veterinary Medicine, are aware of the economic casualties that occur when regulations are unnecessary, when delays in new animal drug applications are unjustifiably delayed and prolonged. Indeed, we have taken a number of steps already, such as the "Fast Track" NADA review process, the self-assessment—a rather fundamental one—within the Agency now on the so-called drug lag problem.

Indeed, there are many statistics, and we can discuss them, if you'd like, about the drug lag. It is true that there are drugs for animal feeds that are available, licensed in other countries and not in the United States. Interestingly, if you look at all the figures for the past several years, most drugs for poultry, while the review time took longer in the United States than in other countries, in fact, were first approved in this country. And I think what that means is that sometimes when you are second or third, you can do it faster. Most importantly, the drugs, in fact, are on the market.

There is no question that our pipeline right now for new animal drug applications is an extensive one. There are 10 new animal drugs in the pipeline for investigational or new animal drug approval. A number of these are poultry feeds for the control and prevention of coccidiosis or as antibiotics for disease or production purposes. There are a number of "me-to" NADA's, combination NADA's, and, indeed, we now have 13 animal drugs on the "Fast Track" system.

We are very much in the fast learning curve, I believe, of initiatives to speed up the review process. I am aware, as one of the members of the industry panel said, that sometimes the regulations, or at least the criteria for approval, can be a moving target, and I assure you that I am doing my utmost to see that the target does not move and that, indeed, the scientific are the best, but also current and not changing, especially by fiat.

Another area of interest to us that has also been brought up is that of orphan drugs. As I'm sure some of my friends in industry are aware, we have, in fact, proposed new regulations that will greatly alleviate this problem, we believe. We are now soliciting comments from industry and the scientific and public health communities, and then this spring we will finalize those regulations, and I believe that it will permit the minor use of drugs much more easily without compromising the public safety.

Indeed, we cannot support research in this area, and I think a very important consideration in addressing the orphan drug issue for ani-

92-836 O - 82 - 4

mals, as well as for man, is that there be adequate funds for such research. Clearly, if they are to come from the Government, then it's going to take recommendations by the administration and approval by the Congress for these funds to be forthcoming.

The approach to these issues, I hope, reflects my basic regulatory philosophy. I believe, Mr. Chairman, that regulation is an important element in consumer protection but should be imposed only when alternatives are inappropriate or ineffective. I believe strongly in the private sector taking a positive view of its own role in consumer protection. The Government, I believe, should issue regulations or impose new burdens on regulated industry only when necessary and when the results clearly will be beneficial to the public health.

I believe, quite honestly, that industry and the Food and Drug Administration must work toward what I believe we all realize is our mutual goal, and that is safe and effective drugs for animals. Since these are drugs that may enter the human food chain, clearly the science and the clinical knowledge involved in their evaluation must be of the best but must not be arbitrary and certainly not capricious.

In the past, I think there have sometimes been confrontations rather than cooperation, and to the extent that that has occurred, I am doing my utmost to see that the situation changes. I believe that with a common goal, with good science, with a realization of the public need and public expectations with respect to the food and the drugs used in the feeding and maintenance of those animals, that we can find practical solutions, that we can inject more than a modicum of commonsense, and, indeed, that we can work together toward these goals, and, indeed, can therefore accomplish a great deal.

That's all I have in a formal statement. I'd be happy to try to answer your questions.

Senator COCHRAN. Thank you very much, Dr. Hayes.

Now we'll hear from Dr. D. L. Houston, who is Administrator of the Food Safety and Inspection Service of the Department of Agriculture.

STATEMENT OF DR. DONALD HOUSTON, ADMINISTRATOR, FOOD SAFETY AND INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Dr. HOUSTON. Thank you, Mr. Chairman. I, too, would submit my statement for the record.[1] I will not go into it in any detail nor summarize it. It speaks, however, to many of the problems that I know you have questions about relating to exports, line speeds, procedural changes, legislation we're considering, and, of course, the user fee question that was in front of the administration this year.

If you would like, at this point, we might be able to discuss some of the issues that were raised by Mr. Walsh and others such as Mr. Sanderson.

First of all, they talked about the label approval system and the fact that we've had one in front of us for a number of years that's been rather strict. I'm happy to say that we're ready to publish a pro-

[1] See p. 56 for the prepared statement of Dr. Houston.

posal within the next several weeks—I hope before we appear for appropriations hearings—that we believe will bring about some solutions to that problem.

Senator COCHRAN. It might help the appropriations process along.

Dr. HOUSTON. I'm not responsible for the grading question, but I would like to point out what the Department is faced with on the export grade A question. "Do we permit the grade A legend, or the term 'grade A,' to go on products that are going to our customers outside of this country that do not meet the requirements of a grade A product in this country?" We're concerned that if we do that, then we're going to receive a lot of criticism from our foreign customers—"What is the difference between the export 'A' and your own domestic 'A' requirements?" and "Are you sending us inferior products?"

Senator COCHRAN. Do other foreign exporters do that, though? Do they have a domestic grade A and an export quality "A," or do you know?

Dr. HOUSTON. To the best of my knowledge, they probably don't, but what we're talking about, Senator, is enforcement. In the United States, we enforce our laws and regulations in a uniform and consistent manner. In my judgment, many foreign countries do not do that. They selectively enforce regulations based on the situations they have to face. I have seen many cases in which regulations are enforced as trade barriers; where sometimes they're not enforced so domestic producers can have an advantage in the economic system. That's been my judgment, especially in the European Community. That's not the way we practice it in this country.

The other problem we're faced with is that our laws are very specific in that both domestic and export product must meet the same requirements, and therein lies much of the dilemma. We've, both from the red meat industry and the poultry industry, faced a number of time requests to limit our requirements for export product. While the law is very specific, we've tried to stretch it as far as we can, but there's a certain point where you run into legal problems. I might add, too, that the poultry industry itself—I think this is an important point—is not settled on this issue of two different grades of product, one for export and one for the domestic market. I know that the National Broiler Council has considered coming to the Department and asking for two separate grades and they've tabled the matter; they've chosen not to get into it. The Southeastern Egg & Poultry Association has gone on public record as opposing two different grades. They would prefer not to see it at this point. Now, that's not to say that there may be some time in the future when the poultry industry changes its mind or takes a collective stand and would come to the Department and ask for some change. But at this time, I don't see the poultry industry united on this question.

As far as that question on school lunch, I simply can't speak to it. I was not aware of that problem, and again it's in an area outside of my jurisdiction.

There was also some comment by Mr. Sanderson on eliminating 328 positions in the Inspection Service relative to what is termed an "outside inspector," or the first inspector in a modified traditional inspection configuration. We have had that question under consideration for

almost a year, and it's come down to, again, a legal judgment. I want to reiterate that our inspection laws are very specific, requiring individual bird-by-bird inspection as well as individual animal-by-animal inspection. Our attorneys have ruled that if there is any need for outside inspection, any need at all, then we cannot turn over that duty, even on a quality control basis, to the industry. The issue is not settled, but I do have to tell you that, considering the law as it is now written, it may be difficult to do what the industry is asking for in this area.

The other point that was raised asked for elimination of the in-plant compliance group that makes independent reviews of the red meat and poultry industry. We carefully considered that suggestion. It was given to us directly by the industry and it was also raised by the Vice President's Task Force on Regulatory Relief. We have decided to maintain that group. It's a group of about 30 individuals, professionals, that are stationed in Lawrence, Kans., that make independent reviews of meat and poultry plants throughout the United States. The program came into effect in the late 1960's and early 1970's after a number of scandals, principally in the red meat industry, related to illegal movement of certain products, and also subsequent GAO investigations which strongly criticized the Department and the industry for maintaining poor levels of sanitation. It was just recently that another report by GAO was issued—within the last year—that also criticized the Department and the industry again for not having the levels of sanitation which they felt was appropriate. We believe this group is needed to develop independent audit information about the quality of sanitation and inspection in all 7,000 plants that are under Federal inspection. They also give us some indication regarding the quality of procedures being applied by the over 7,000 inspectors that are in the program. We think that it deters, to a large extent, more extensive reviews by GAO as long as they know that we're carrying out this program. That same program is also heavily endorsed by the Department's Inspector General. When we considered doing away with this program, he, of course, was consulted on it and has strongly recommended to my boss, Bill McMillan, that we maintain the effort.

I think I've covered most of the points that our industry colleagues raised, but if there are others, I'll be happy to get into them.

Senator COCHRAN. Before we leave that and go to Mr. Gordon, let me ask you about the outside inspection. I understand that you are experimenting with eliminating outside inspection with respect to turkey processing. Can you comment on that?

Dr. HOUSTON. We do have some programs underway now—several experiments going—but they would not do away with outside inspection per se. What we are proposing is to split the inspection process between two people. Presently, one person carries out a total inspection on each bird, and another person does it on a different bird down the line. We wouldn't be proposing to do away with an inspector, but just merely splitting that work up between different individuals. We believe this will allow us to gain more efficiency from our people—improve their productivity—and at the same time, once that occurs, we can probably let line speeds go up.

Senator COCHRAN. Thank you.

Mr. Gordon, Regional Administrator of the Department of Labor, OSHA, in Atlanta, we're glad to have you here.

STATEMENT OF WILLIAM W. GORDON, REGIONAL ADMINISTRATOR, REGION IV, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY DR. ALICE SUTER

Mr. GORDON. I'm pleased to be here today, Senator, before your subcommittee.

I'd like to, if I may, read into the record some of the real changes that I think have come under OSHA and under the Reagan administration. So, at this point in time, I think the audience here will get a chance—and I'd like them to hear some of these changes.

Under the Reagan administration we are following a new approach to carrying out our responsibilities under the Occupational Safety and Health Act of 1970. OSHA regional and area office employees look upon their role as more than simply enforcement. The focus of my field staff is not solely on citations and monetary penalties, but abatement of workplace hazards. This is a significant change from OSHA's past field enforcement philosophy.

The instructions we have received from OSHA Assistant Secretary Thorne Auchter are to emphasize a broad range of programs designed to help employers and employees recognize and remove hazards from the Nation's workplaces. We will also encourage States to play an increasing role in regulating workplace safety and health. Each aspect of OSHA's new policies and programs in region IV is designed to eliminate any adversary spirit that may hinder OSHA's effectiveness. By encouraging employers and employees to work together, we are more likely to achieve improved workplace conditions.

No new policy that emphasizes cooperation can be effective unless those of us charged with carrying it out do so in a manner that reflects this new attitude. For example, although the act requires us to issue citations where a violation is found, it does not follow that we are bound to a policeman's approach to workplace safety and health. While we must cite for violations of standards, we can do so in a constructive manner, offering suggestions for abating workplace hazards. If abatement occurs, we have the flexibility to adjust penalties.

The ability to build a more cooperative relationship depends largely on the helpful and professional manner in which the agency's compliance officers conduct themselves. Consequently, Assistant Secretary Auchter has issued a directive to all OSHA Compliance Safety and Health Officers [CSHO's] reminding them that their demeanor is the basis on which the agency is judged by the public. In this directive, compliance officers are encouraged to explain to employers and employees that the OSHA program includes other ways besides inspections to protect the work force, such as training, education, and consultation.

The training given to OSHA compliance officers at the agency's training institute in Des Plaines, Ill., is also being revised to emphasize a more helpful approach to employers. OSHA's compliance officers are being instructed to make a positive contribution at every workplace visited; this may be technical advice or general information on how to recognize or eliminate workplace hazards.

We have also taken steps to utilize our compliance staff more efficiently. In October we began implementing a new system of targeting safety inspections by identifying and inspecting workplaces in

the manufacturing sector where the most serious safety and health hazards exist. Under this system, a scheduled safety visit to a firm with a good safety record remains just that—a visit and not a comprehensive inspection. This gives us the opportunity to visit more worksites and to concentrate on those where problems are likely. In construction, in other hazardous mobile worksites, and in workplaces with particular local problems, we will continue to schedule safety inspections as before.

In our implementation of the OSHA program, we in region IV reflect the new emphasis on cooperation; we are attuned to the agency's present effort to use the wide array of activities authorized under the Occupational Safety and Health Act of 1970. In addition to inspections and standards enforcement, all the tools available under the act—education, training, consultation, programs for voluntary cooperation and State programs—are being utilized and melded into a balanced program mix.

Many employers, particularly those with small businesses, need assistance in understanding their safety and health responsibilities. In region IV, we make onsite consultation available to such employers at their request and at no cost to them. It is provided by the Mississippi State Board of Health in Jackson. The Federal Government pays 90 percent of the cost of this service and Mississippi supplies the remaining 10 percent.

Consultation is separate from OSHA inspections, and employers may use this service without fear of being cited or penalized. Consultants walk through the establishment with each employer. The consultant points out hazards and suggests methods to correct them. Imminent dangers or serious hazards to workers found during a consultative visit must be corrected. This has proven to be a popular program requested frequently by employers. It supports the administration's belief that OSHA is not primarily a policeman but a positive source of assistance to those concerned with workplace hazards.

I know that you are particularly interested in OSHA's regulation of workplace conditions in the poultry industry. The major safety problems that we found in this industry were inadequate machine guards, violations of OSHA's electrical standard, and excessive workplace noise. Some of these are serious problems, but we have found that Mississippi's employers are genuinely interested in removing workplace hazards.

With me today is Dr. Alice Suter who can discuss OSHA's noise standard—a regulation that affects the poultry industry. Last August OSHA put into effect a new requirement for hearing conservation programs for employees. We are now receiving comment on a number of issues associated with that regulation. Our goal is to conserve workers' hearing without placing any unnecessary regulatory burdens upon employers.

A number of the State's employers have visited our Jackson office seeking advice on methods for making their workplaces safer. Our staff in Mississippi is more than willing to work with the poultry industry employers in findng ways to protect their workers.

Thank you for this opportunity to appear here today. Dr. Suter and I will be happy to answer any questions.

Senator COCHRAN. Thank you very much.

Dr. Suter, do you care to comment about the noise regulations at this point?

Dr. SUTER. Yes. I'd like to mention a couple of things. First, the noise standard that we have in effect now was adopted by the Labor Department in 1969 and became an OSHA standard in 1971. The regulation that came into effect last year was an amendment to the noise standard for hearing conservation programs, clarifying the requirements for hearing conservation programs; namely, noise monitoring, audiometric testing, hearing protectors, training education, and recordkeeping. The standard was to become effective in April of last year, but the effective date was delayed in order to examine a number of petitions asking us to stay it and requests for interpretation. So we did stay the effective date and, finally, in August, we made effective those parts of the regulation that we felt were necessary and relatively uncontroversial, and we held back a number of the provisions for further study and rulemaking.

The issues that are coming up for public hearing next month are those issues that have been stayed. And the ones that are effective now will remain in effect. So there really shouldn't be a problem where employers go ahead and start implementing a program, and then find out that the program has to be changed. The hearings are going to be held on the additional issues that were stayed, and we will either delete those provisions, modify them, or put them back into the rule, depending on the outcome of the hearing.

Senator COCHRAN. So those processing plants that have knowledge of the new standards, that are in effect now, or the amendment that you speak of should comply with those.

Dr. SUTER. Yes.

Senator COCHRAN. There is no real basis for concern that they will waste money by investing in changes that will then have to be done away with.

Dr. SUTER. That's correct. If the situation should arise where additional measures are required after the outcome of these public hearings, anyone who's used good faith in implementing the existing procedures will get along OK.

Senator COCHRAN. Are there witnesses who will be invited to appear from the Southeast at your hearings? Will you be talking to plant managers or persons involved in the industry from this area?

Dr. SUTER. The notice of hearing was published in the Federal Register, and we invited——

Senator COCHRAN. All of us don't read that every day.

Dr. SUTER. I know.

Senator COCHRAN. Are you going to specifically invite some witnesses from around the country, or just give them an opportunity to show up?

Dr. SUTER. We've given them an opportunity to come. At this point we haven't invited any witnesses—any particular witnesses; however, maybe I could use this opportunity to invite representatives from the poultry industry to come and tell us their problems.

Senator COCHRAN. When are the hearings? Can you tell us when and where they are?

Dr. SUTER. Yes. March 23 in Washington.

Senator COCHRAN. That's at OSHA——

Dr. SUTER. In the Labor Department, yes. I've brought along copies of the Federal Register that I can pass out after this meeting.

Senator COCHRAN. That's probably depressing.

Dr. SUTER. It's not very long, I assure you.

Senator COCHRAN. Depresses me, anyway. Just the time and place and date would probably be more than they would want.

Well, that's good to know, and I think that will be very helpful, to all of us. We appreciate your providing that to us.

Now, we will go ahead and hear from Alex Little, who is Deputy Administrator of the region for EPA in Atlanta. We appreciate your being here.

STATEMENT OF JOHN A. LITTLE, DEPUTY REGIONAL ADMINISTRATOR, REGION IV, ATLANTA, GA., U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. LITTLE. Thank you. I very much appreciate being invited. I think it's extremely useful for regulatory agencies to come to hearings of this type and hear a little bit about the impact of the regulations that we put out. And we need to do a lot of that, perhaps.

You have a copy of my statement, and rather than read this into the record, I would like to review parts of it with the hope that perhaps it would raise additional questions that I would be happy to address.[1]

First, I would say that EPA has a lot of environmental laws and four of these are laws that directly impact the poultry-processing industry: the Clean Water Act that you've heard a little bit about today; the Resource Conservation and Recovery Act—that's the Solid Waste Act; the Federal Insecticide, Fungicide, and Rodenticide Act—the Pesticide Act; and then, finally, the Toxic Substances Control Act.

The review of the features of the Clean Water Act in the statement deals primarily with development of wastewater treatment requirements for poultry processing plants. It goes through some of the history of that process as it has occurred over the last several years. It identifies that there are approximately 80 direct discharges of poultry processing wastewaters in the United States that are regulated under this requirement. Most of these plants are located in the major poultry processing States, and we happen to have three here in the Southeast.

The types of regulations that have been developed are technically complex, but they do address the problem of water pollution which is prevalent and is especially aggravated by certain kinds of wastes; unfortunately, the poultry processing industry produces a very strong wastewater which requires significant treatment to remove pollutants before they damage the waters of this country.

Some of the history of what we have done deals with various aspects of developing standards. Where we are right now is in the development of guidelines rather than specific effluent limitations. The efforts to develop specific effluent limitations for various wastewaters in this country have dealt primarily in the last few years with toxic wastes, and I might say that the poultry processing industry has escaped, essentially; that there are no real toxic wastes connected with this

[1] See p. 60 for the prepared statement of Mr. Little, and p. 63 for a followup letter with answers to specific questions.

industry. The completion of effluent guidelines is still sometime in the future, but I might say that the development of standards for wastewater treatment are fairly well known. For most poultry processing plants, EPA together with the States that have the requirement to administer the National Pollutant Discharge Elimination System—and in this region that's six of eight States—are using best professional judgment to develop permits that put requirements on wastewater discharges.

A lot of wastewater discharges from the poultry industry may be discharged into municipal systems, and, if so, there are certain parts of the Clean Water Act that address that. As you mentioned, the Clean Water Act is up for amendment this year and I know that there will be portions of that act that address what we call the pretreatment requirements—requirements that municipalities might place on a poultry processing plant discharging into the municipal sewerage system—that will be addressed in some detail.

In the way of answering a comment that was made earlier, the requirement for 1983 in terms of our Nation's waters are to have fishable, swimmable waters, where obtainable, not drinkable. I wish we could get that good, but we're not there yet. But it is fishable and swimmable where obtainable, and I think that's a key item to mention.

Let me move to a couple of other parts of the laws that we deal with. The Resource Conservation and Recovery Act requires the development of State plans for disposal of solid wastes. There is no mandatory program for disposal of solid wastes from the poultry processing industry, but there are guidelines that have been issued from which the States would develop a State solid waste program, and these programs do affect the poultry industry. So, essentially, what I'm saying here is that most of the regulatory involvement from the standpoint of solid waste is a local and State program but with some guidelines from the Federal Government. The poultry industry does not come into play with respect to the Resource Conservation and Recovery Act features that deal with hazardous waste. I think you might understand that that's probably a blessing for them because hazardous waste requirements are extremely rigid and something that we would have to look at the Federal level in addition to the State level.

Regarding the pesticide program, I wish I could tell you that I have the answer on ferriamicide today. I do not. I think that the letter that you mentioned would certainly be of use to the administration now in making its determination. From a personal standpoint, I would say that I hope that this particular pesticide is more effective than some of the others that have been tried in the past, and, if approved, I hope it will prove to be effective here in the South in particular where the problem is located.

One of the things that we do have in the pesticide program is a program for assisting the poultry industry with respect to housefly control. There are some approved pesticides for this purpose, and, in addition to that, there are some mechanisms under the Pesticide Act that will allow special emergency provisions to be brought into play, or perhaps special experimental use of certain kinds of pesticides. And with respect to that, I think that here EPA is trying to help the poultry industry as much as possible. The housefly problem is acute

92-836 O - 82 - 5

in many areas. I'm not too sure about here in Mississippi, but I imagine that it is a problem here also, and we will do what we can to see what in a regulatory way can be done to provide some pesticides that can assist in controlling housefly growth.

As for the Toxic Substances Control Act, basically, only one part may affect the poultry industry, and that is the part that deals with the control of PCB's—polychlorinated biphenyls. The program that EPA has and the law calls for is virtual elimination of this particular toxic chemical. The way that the poultry industry may get involved is that there are transformers in use that contain PCB's and if they're located within 50 feet of any food or food-processing areas, they must be inspected. There is also a requirement for keeping records on these inspections. We would hope that over time PCB's would be eliminated from this particular use and these inspections would no longer be necessary.

Let me say in closing that EPA has taken its experience with a lot of laws and is attempting very diligently now to look into these laws and see what can be done to improve them. We, in particular, have put a lot of attention on reducing the regulatory burden on small companies or small government entities, and at the end of last year, 40 of our regulations had been looked at in particular to remove some of the more stringent requirements for small businesses. I think this is a real important step.

We also have undertaken something recently that we call a peer review process which requires that much of our scientific review of everything that we do in the agency comes under some very close scrutiny by a group of scientific peers both within and outside of EPA, and this extends down to the regional office level. We have instituted new procedures for the Atlanta office that require more scientific review of our actions just to give us, if nothing else, more consistency in the scientific decisionmaking process.

I think I've skimmed through most of the statement, and I would conclude by thanking you again for having me.

Senator COCHRAN. Thank you very much, Mr. Little. We appreciate your being here and adding to the hearing in the way that you have.

Going back now to review some of the items and some of the questions that have been brought to my attention before the hearing, I would like to ask Dr. Hayes in connection with his work at the Food and Drug Administration, whether or not there has been an opportunity yet to have a study made that I understand was recommended by the National Academy of Sciences on the use of antibiotics in feed at subtherapeutic levels. I know there's a continuing debate on that subject and that there was an earmarking of some funds in the budget for this fiscal year that were to be allocated for such a study. Has that study gotten underway?

Dr. HAYES. It has. The contract has been let to the Academy and the study is underway currently, Senator.

Senator COCHRAN. Do you have any idea what the timeframe is going to be on that?

Dr. HAYES. It's difficult, but we have been promised a preliminary report by the beginning of the summer.

Senator COCHRAN. I'm glad to hear that. I presume that once the findings are in, FDA might try to implement some regulations on the use of antibiotics.

Dr. HAYES. I think it depends upon what comes in early on from the study. If it looks as if it is more complex than we hope it will be, then obviously, you're going to need more details because changes in the regulations would be more complex. If it looks at least relatively simpler, then I think we can act perhaps more quickly. We will certainly do what we can as fast as we can, because to leave the situation as it is, I think is most difficult. So I think we really have to wait and see what the preliminary report from the Academy looks like, and I think that will give us some direction, or at least some areas where perhaps we can act more swiftly.

Senator COCHRAN. There is an indication that your Bureau of Veterinary Medicine has been considering adoption of a second generation medicated feed regulation. The industry has suggested some revisions to reduce what is referred to as "unnecessary paperwork" in connection with those regulations and to provide industry management with more flexibility. Do you have anything you can tell us at this time about those regulations and whether or not the suggestions from the industry will be taken into account, or are being included, so that there will be a reduced burden on agricultural producers?

Dr. HAYES. I can assure you that the recommendations are being taken into account. In fact, subsequent to publishing the proposed regulations on January 9, 1981, we received 570 comments, the majority of which were from representatives of the commercial feed industry. We are in the process right now, Mr. Chairman, of revising those proposed regulations in an attempt to keep the paperwork and the paperwork burden at a minimum. We are enthusiastic about this program because we think that it will substantially reduce the burden to the industry and to the Food and Drug Administration not only in the paperwork, but in the number of inspections, preparation for inspections, recordkeeping and the like.

Senator COCHRAN. What about that question that was raised earlier from the industry panel about their coccidiostat drug that has been approved and had been in use in England for 3 years but not yet approved for use in the United States? What do you know about that?

Dr. HAYES. I'm afraid, Mr. Chairman, I can't speak to that particular drug. There are two coccidiostats that are under review in the Bureau of Veterinary Medicine at this time. I can't tell you any of the details because I really am ignorant of them with respect to its approval in England, or whether their criteria were different, or the doses that were proposed for use were different, so I really can't speak to it. I'd be very happy to find out and let you know where it is.

Senator COCHRAN. Could you do that. I would like to get an answer on that, if we could, from somebody on the staff, and if you could just drop me a letter at my office in Washington, then we can include that response in the record and help figure out what's going on there.

Dr. HAYES. I'll be glad to.

[The following letter was subsequently received by the committee:]

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR SENATOR COCHRAN: I certainly enjoyed my brief sojourn in the Magnolia State. The hearing went well, I thought, and provided me with additional insight into some of the problems facing the poultry industry.

One of the questions I was asked at the hearing concerned a constituent's understanding that the FDA is reviewing a coccidiostat drug for use in broiler chickens, which has been submitted by Merck & Company. The constituent asked about the prognosis for early approval. As you know, we are limited by the Federal Food, Drug, and Cosmetic Act, 301(j), and the regulations (21 CFR 514.10, 514.11, 514.12) from making publicly available (i.e., for the public record of this hearing) particular information on pending New Animal Drug Applications. It may be useful to the questioner to know that there appears to be considerable interest and activity by several drug sponsors in developing new anticoccidial drugs for use in poultry. At the present time, the Bureau of Veterinary Medicine has under review four (4) new anticoccidials. Each product's application is at a different stage of completeness. When these products will be approved for marketing cannot be determined at this point in time. Several of the products are also under review and pending approval in other countries (e.g., Australia and Canada). The questioner noted that the product which he had in mind is being developed by Merck & Company. Given our constraints under the law the questioner may wish to contact Merck & Company directly for more complete information.

In response to a second question concerning a drug "like zinc bacitracin" that is under review for use in necrotic enteritis, the regulations now provide for the feed use of bacitracin methylene disalicylate (M.D.) for the prevention and control of necrotic enteritis in broiler chickens and lincomycin for the control of necrotic enteritis in broiler chickens. Neomycin is also available for the treatment of bacterial enteritis in chickens. I am afraid that we are not able to answer more precisely due to the lack of more detailed information given by the questioner.

If you have any further questions about these products, please let me know.

Sincerely yours,

ARTHUR HULL HAYES, Jr., M.D.,
Commissioner of Food and Drugs.

Senator COCHRAN. I remember our hearings last year when we were looking at budget requirements for this fiscal year and that was one of the concerns you had at that time—unnecessary delay in the approval of drugs and other matters that had to come before the Food and Drug Administration. I think you had been onboard about 2 weeks when we had that hearing and I'd been onboard about 1 month, so we were really acute in terms of our experience in dealing with the subject matter—you a lot more than I because of your work in that area of the medical field. You're certainly very well qualified for the position that you hold, in my opinion. But I suppose that is an ongoing effort in the FDA, to try to move those reviews along so that approval is not arbitrarily delayed.

Dr. HAYES. That's true. I hope that hasn't happened too often in the past, though I can't speak to it firsthand. But, as I'm sure you're aware, perhaps because of my background in the area of drug investigation as well as the visibility and importance of drug approvals—human, veterinary, medicated feed drugs—that, in fact, this has assumed top priority since I have been Commissioner, and, indeed, our task force on drug approval, though it was originally focused primarily on human prescription drugs, in fact, has as one of its members the director of the Bureau of Veterinary Medicine. We hope—and I'm assured that the hope will be realized—that, in fact, many of the changes that we are about to put into effect in hastening drug approvals—making them more efficient, reducing the burden in terms of data to be submitted and the like, as well as management and resource allocation changes—will apply to the approval of veterinary drugs as it will to human drugs.

Senator COCHRAN. Thank you very much. And I'll look forward to having your letter on that specific question that was raised by the industry.

Let me ask Mr. Little: There is an effort in Congress relating to economic consequences of regulations. An effort is being made to insure that those who are writing regulations take into account the economic consequences of compliance, cost of compliance. Is EPA developing any cost reasonableness tests to go along with effluent guidelines to use for the control of conventional pollutants?

[Off the record.]

Senator COCHRAN. I'll restate that question. What I was specifically referring to was that Congress requested EPA to develop a cost reasonableness test to be used in establishing effluent guidelines. EPA issued such a test. It was challenged in court and the court found the test to be invalid. My question is: What is EPA now doing to develop a cost reasonableness test, or procedures to insure that the economic consequences of your regulations in connection with effluents are taken into account in developing the guidelines and regulations?

Mr. LITTLE. I'm not sure exactly what EPA is doing with respect to that court decision. I would say that there is a great deal of stress within the agency, and has been for several years, on evaluating the economic impact of much of what we do in our regulatory business. Many of the laws do not address the ability to do this. In the Clean Water Act there are features—for example, in best available treatment which is a 1984 goal which does require economic analysis, and I believe that's what you have reference to.

Senator COCHRAN. That's right.

Mr. LITTLE. I wish that I could tell you exactly what's happening now after that court decision. I'm assuming that we're going to learn from that judgment and then see if we can come up with something that would be acceptable. I know that we do have a group in Washington who do review much of our regulatory work—probably all of it—from the standpoint of economic impact. In some cases, we're not allowed to look at economic impact under some of our laws. Some environmental laws do not address the ability to do that.

Senator COCHRAN. Back when the Clean Water Act of 1977 was being approved by Congress, there may have been an objective to have all the Nation's waters totally crystal clear—like one of the persons who testified earlier stated, you could get down on the ground and drink it if you wanted to—but I think we would all agree that that's unrealistic. I think that's what you said; that that's unrealistic to have that as a goal. Were there any restrictions or guidelines or requirements for control imposed back then when maybe there were some people at EPA that thought that was a realistic goal that now may need to be changed or altered? If so, do you foresee in connection with the poultry industry any relief from any existing requirements that can be expected?

Mr. LITTLE. I think that when the law was passed, there was a requirement for what we call zero discharge.

Senator COCHRAN. Right.

Mr. LITTLE. And I believe that as the act is now going to be reviewed this year, the agency is probably asking those who are regulated, and

also suggesting to Congress that this is one feature of the act that needs to be readdressed as to what is the meaning of zero discharge. You can say zero discharge in wastewater and in an environmental sense you may be creating a problem somewhere else. You can remove a pollutant from wastewater and it ends up in the air or perhaps in solid waste. So, yes, we do need to address these kinds of things in more of a generic sense environmentally. And I think the review this year will probably include that type of consideration.

As far as the poultry industry directly, as I mentioned, we have not developed final effluent guidelines for wastewater discharges. What is being done is best professional judgment, which is basically using the existing treatment technology that exists throughout the country, applying it to poultry as we would other industries. And, I think it's a fair application in doing that. Perhaps there are some things from a research standpoint that could be done to come up with better means of treating wastewaters, or, as was mentioned earlier, the solid wastes generated in the production of poultry—what is the best way to dispose of this? Whether it's plowing it into a field, or landspreading, or putting it into a sanitary landfill, it is a very potent waste in many respects, and we need to come up with some good ways to handle that.

So I think that the answer is "Yes." I'm an engineer and I know that when engineers do something the first time through, they don't always get it perfect and they need to learn from that experience. And we've got about 10 years of experience in a lot of our laws that we need to review and make recommendations on.

Senator COCHRAN. Well, I hope that we'll work together. I think we've had it brought home to us today that if we do too much playing around with these rules, impose too many restrictions and requirements on poultry producers, that we run the risk of destroying a segment of our economy. These are real people. Poultry is a real important segment of our State's economy and Alabama's economy—the entire United States for that matter—and can be a big contributor to job creation in terms of exports. We can increase our exports and win some of these battles with our competitors overseas. I hope all this can be kept in mind when the review is conducted.

Will the Atlanta office, since it is here in this region and is closer to the problems in Mississippi and Alabama, have an opportunity to make input when EPA sends its testimony to the Hill requesting changes, requesting relief maybe from some controls and requirements? Will you get a chance to crank in some observations, maybe as a result of this hearing today, or day-to-day observations that you make in the Atlanta office?

Mr. LITTLE. The answer is "Yes." In fact, we are now in the process in EPA of having headquarters people visit each region to discuss the Clean Water Act amendments that were just passed and those that might be considered this year, and in doing so, we invited all of our State counterparts in the water pollution business to come in and to let us gain from their knowledge because they're really on the scene with respect to the problems and we do learn quite a bit from them. So the answer to that is an absolute yes.

Senator COCHRAN. Thank you very much.

In connection with the OSHA statements and the hearing testing requirements that you mentioned, Dr. Suter, there was an indication

of concern from one of our witnesses about the cost that this may occasion to the industry. I understand that regulations published by OSHA requested employers to conduct a workplace noise survey by February 22, and that by August 22, the employers are requested to perform hearing tests on workers exposed to 85 decibels per workday. Why is it necessary to conduct industry hearing tests that can cost as much as $50 per employee as well as lost worktime when suitable noise protective devices can be worn by the affected employees or when acceptable physical plant changes can be made instead?

Dr. SUTER. First, when acceptable physical changes can be made, they are always preferable, and if they can be made, the hearing conservation measures are not necessary. So that's always a preferable line of defense.

Now, if it's too expensive, if it's infeasible, then hearing conservation measures should be used instead, and, by our estimates, the hearing conservation measures are considerably less expensive in most cases.

We have estimated that an average-per-employee figure is about $34, and that includes the hearing test itself, any noise measurements, the time away from the job, and even training and hearing protector costs. The estimate that we made last January was a bit more than this; it was $53 per worker per year. But since that time, as I mentioned earlier, a number of the requirements have been stayed, so the costs have gone down quite a bit. Even if those requirements are put back in the standard as a result of the hearings in March, it should only be $46 per worker per year on the average.

Now, there's no getting around the fact that for small businesses, the costs will be a little bit larger than for big companies that can have their own inhouse programs. But I don't think that it's—the estimate of $50 per worker sounds very high to me for audiometric testing.

One other point that I should mention is that we understand that in many industries—in the poultry industry in particular—there's a high rate of turnover and there's use of seasonal workers all through the food industry, and in these cases employees don't have to have audiometric testing. It's very difficult to follow them and there's really not much point in setting up an audiometric testing program if the worker is going to be on the job for less than a year. So, in effect, we've said that employers don't need to test workers who are with them for less than a year. So I imagine quite a number of employees in the poultry industry will be exempted from that particular requirement.

Senator COCHRAN. What would the recourse be for a plant manager or processor if he wanted to try to get an exemption, or try to get some relief from this rule? Should contact be made with the State office in Jackson to discuss which employees have to be tested and which don't have to be?

Dr. SUTER. Certainly, the local area office or the regional office can answer those kinds of questions. If it's clear that the employer does have employees that are there more than a year and yet he feels that there's a particular reason why he should be exempt, then there is a variance procedure that he can go through. Either the area office can help, or the regional office, or the company can go directly to Washington and somebody from Washington can give that kind of advice. I get phone calls like this myself, so I can be a good starting point for this kind of procedure.

Mr. GORDON. Let me just say this, Mr. Chairman: The variance procedure normally does go through the national office. And, again, the variance procedure should indicate also what other steps then the employer would be taking to protect that employee in line with that particular variance. And, of course, that's the important part of a variance.

Senator COCHRAN. When I ride on an airplane, I see these baggage handlers and those working around the plane wearing things over their ears. Does that cost less than $50? Why don't we just get everybody some earmuffs or something to wear over your ears and do away with the testing if it's less expensive.

Mr. GORDON. What's going to happen there, of course, is the fact that if the attenuation of noise through the use of earmuffs doesn't do the job, this is what you find out through audiometric testing—whether your earmuffs, or your earplugs, are effective. So annually that has to be done. So even though the answer is ear protection, is it proper ear protection? Has it been fitted properly? Is it being worn all the time? And the only way you're going to find that out is through an annual audiometric test.

Senator COCHRAN. Mack.

Mr. MCCARTY. I'm not sure that I'm thoroughly familiar with this regulation, but it requires periodic testing. A side effect that I see is that it becomes a godsend to a bunch of lawyers. You know, everytime one's hearing is impaired this year as compared with last year as compared with the year before, whether it's job connected or not, a lawyer can grasp upon that, or seize upon that, to bring action. Granted—granted you understand—granted that there may not be any recovery, but industry has to go to the expense of defending against that sort of suit. So I'm saying that one of the side effects of periodic repeated tests will be lawsuits growing out of this sort of thing, some of which may be justified; many of which will not be justified.

Senator COCHRAN. I appreciate the comment and the observation.

Mr. MCCARTY. My mother-in-law is 87 years of age. She can't hear thunder. I can't hear as well today as I heard 10 years ago. Dr. Walsh who sits over here has a hearing problem, and I'm sure it's not as good as it was 10 years ago. But if he worked in a processing plant and testing revealed that his hearing was impaired over time, or was less today than it was 10 years ago, he would have some basis for bringing an action against the owner of that processing plant substantiated by this procedure claiming that his hearing was impaired by his job and it may not have been connected at all.

Senator COCHRAN. Thank you. Is this one of the parts of the regulation that has been stayed for final decisionmaking? Will this be part of the hearings that will occur next month in Washington?

Dr. SUTER. This issue was really more an issue concerning worker compensation which is not OSHA's purpose. However, there is an important side effect of the regulation that can really help employers. The first test—the baseline or preemployment test—can help to establish what the worker's hearing is at that time. If the worker was in another plant before, or in some other kind of noisy industry, and did develop a hearing loss, the employer would be establishing a baseline to show that the hearing loss was not caused in his own plant.

So many employers have viewed the baseline audiogram as being something for their own protection.

Senator COCHRAN. I'm told that inspections in the poultry industry by OSHA have gone up from 35 percent of the inspections in the plants to 50 percent. These are general inspections from 1980 to 1981. What are the plans for this year? Is this a trend of increasing inspections? If so, it seems inconsistent with your earlier statements about being less of a policeman and more of a partner.

Mr. GORDON. No, sir. I don't anticipate that the frequency of inspections will go up. In fact, just recently I discussed the inspections that took place over the last couple of years with the local area director. He indicated to me that there were only seven inspections in 1980 and only six in 1981, and I would anticipate that there would probably be less than that in the future. Not only that, Senator, but now we're mandated by Secretary Auchter that when we go into the workplace, covered by the average rate in manufacturing today of a loss workday case incident rate of 5.2, we will ascertain in each workplace whether that workplace exceeds that rate, and if it doesn't, then we're going to say, "We think you've done a great job," and we're going to turn around and walk out and we're going to go to the next place. So it's not one of those things that in the past where we have scheduled employers for inspections and then year after year inspected them, we don't intend to do that any more. We're only going to go where we're needed.

Senator COCHRAN. That's good news.

Dr. Houston, I know you were here when we heard the testimony from the industry. I was interested in Dr. Walsh's comments about the mutilation of birds during an inspection or grading process that made it more difficult to sell in foreign markets. What can you tell us about that, or what are your observations about that problem?

Dr. HOUSTON. Again, the law is so specific that domestic and export requirements are difficult to separate, but, nevertheless, we've tried to stretch the law, as I mentioned earlier. As a matter of fact, just a year or so ago, we made arrangements for poultry to be exported to some countries that had the legs left on them, or part of the legs; that had 14 percent added moisture versus the 6 percent that's required domestically; and also left other parts on that bird which we require to be taken off for domestic purposes. I don't believe that business deal ever went through, but it does indicate what we're prepared to do, and to stretch our own law as far as we can.

Now, specifically, Dr. Walsh was talking about bruises, torn tissue, broken bones, and so forth. We have, of course, in this country probably the highest standards for ready-to-cook poultry of any country in the world. Again, it's a matter of will the receiving country be prepared to accept those types of defects when they enter that country. I think, from our standpoint in the Department of Agriculture, that if the receiving country—and I'm talking now about the government of that country—is willing to give us some indication, some official indication, that they're willing to accept these kinds of defects, then we're quite willing to talk about permitting those types of birds to enter that country. But I'm not sure that's going to occur. I think that if we went to the Mexican Government and said, "We understand that some people in your country are ready to bring in birds that have bruises on them,

that have tissues that have been torn up in the picking machine, that have broken bones," they're simply going to say "No" and they're not going to let those birds enter their country. We have a very credible inspection program and a very credible industry, and once we start down that road, we start raising questions about the credibility of the quality of our poultry. Then we're in a dangerous position.

But as I said, we are quite willing to talk about that issue further. We have in the past, and we'll do so in the future. In doing that, we need to emphasize that we must bring in the officials of the foreign country that is receiving that poultry so that they recognize what's coming into their country.

Mr. WIESE. I have a comment. I work for——

Senator COCHRAN. Would you identify yourself, please, for the record.

Mr. WIESE. Bob Wiese, general manager, Green Acre Farms.

Senator COCHRAN. Fine. Go ahead.

Mr. WIESE. I work in the export area and I agree with Dr. Houston when he commented it was an enforcement problem in the foreign country. It's another unfair trade practice that primarily the French are exhibiting. We went to Saudi Arabia, went to our buyer, and we went to promote U.S. poultry and we went to tell them how good it was, and we took our regulations—the USDA regulations—with us to explain exactly what it was. Well, the French regulations are very similar. It appears when you read them that they probably copied from our regulations. The thing I don't understand, in their plants they do it with 1 inspector; in our plant, we do it with 11 or 12. What I would recommend, if it's possible, Dr. Houston can either go to the French plants and either see how they do it with one inspector or come back and tell you where they are not performing in unfair trade practices when they ship products to Saudi Arabia. We have agreed—our country has agreed with Saudi Arabia to certain standards and we need to bring out the fact that when France negotiates with Saudi Arabia, they agree to certain standards also. I think you could do something with it in John Block's area of fair trade practices or Dr. Houston can on inspection costs.

Senator COCHRAN. Thank you very much for your comments.

Do you have any observations about his comments?

Dr. HOUSTON. Well, I agree with what he says about enforcement. I think he was agreeing with me on that point; that enforcement in some countries is not nearly as strict as it is here. I just mentioned a few seconds ago that we're ready to sit down and talk about moving products into countries that may not meet our domestic requirements, realizing we're stretching the law pretty far, provided those countries are willing to accept certain deviations. The problem comes, quite frankly, when you start approaching them on a country-to-country basis and official-to-official basis. They back off real quickly; they don't want to have anything to do with accepting certain deviations because it's political suicide to openly say or agree, "Yes, we want it coming in." They want the authority to selectively enforce. I can assure you that if there were any inspection on trade problems between France and Saudi Arabia, you'd see enforcement procedures strengthened considerably.

As far as changing our inspection system in this country, we've changed it very dramatically over the last several years with the new procedures put into effect in plants here in the United States. We just approved this week a new system that's going to let lines operate up to 85 birds a minute utilizing sequenced inspection procedures. That's up 15 birds a minute from current line speeds, provided the plants want to make the necessary changes and go to that type of inspection. We have also introduced this week a bill that's going to do away with the continuous inspection provisions of the Federal Meat and Poultry Inspections Act relative to further processing. Now, that doesn't cover the post mortem inspection of broilers as we're talking about here, but I think it's a clear indication of the direction we're trying to move. But one underlying point I want to make is that without consumer confidence in the food supply, the industry is in serious trouble. No matter what we do in the Department, or what the industry wants to do, we've got to be very careful that we don't undermine consumer confidence in broilers or the broiler industry or we're going to have very serious problems. That same thing holds true of our trading partners.

Let me say in summary, we're quite willing to sit down with the industry—we have in the past—to look for ways to overcome trade barriers that other countries are putting up on a technical basis, but we're going to have to do that on an official basis. We can't go to our industry and just say, "We're going to ignore those requirements. You go ahead and ship that product." Our law won't permit us to do that.

Senator COCHRAN. I notice that one of the items on my agenda here listing some complaints that had been referred to our office either as a result of our meetings with poultry industry people over the years or letters from people back here at home was an item of overtime charges for inspectors. I know that you probably have had an opportunity to discuss this problem with industry representatives, but it seems that that presents a problem and an expense that some feel is an unwarranted expense on the industry. What can you tell us about that? I know there are some changes that may be in the offing. Will the industry have an opportunity to comment or have input?

Dr. HOUSTON. Let me break that into two areas, if I may. First of all, for a number of years—as far as I can remember—the industry has always paid for overtime associated with the work of the inspectors. That is required by the inspection laws. We do provide free inspection up to 8 hours a day for each inspector. If the plant goes into an overtime status by working 9 or 10 hours a day, they pick up the overtime costs. Right now our budget for meat and poultry inspection in the United States is roughly $300 million a year in appropriations; then on top of that, that's a $30 million reimbursement which we collect from the industry annually for overtime charges. That's for the entire red meat and poultry industry.

Of great concern, however, was a ruling about 2 years ago from the Office of Personnel Management which said that we had to reimburse our inspectors for overtime associated with clothes changing, preparation of administrative reports, getting ready for work in the morning and, after leaving the line in the afternoon, cleaning up before going home. We took exception to that ruling and appealed

it to the Comptroller General. About 6 months ago the Comptroller General ruled that, in fact, the OPM ruling was proper, and under the Fair Labor Standards Act we had to start reimbursing our employees for cleanup and work preparation time.

We negotiated with our union—the union that represents poultry inspectors and meat inspectors—a way of implementing that ruling. Those negotiations were completed about 3 weeks ago. We are going to publish in the Federal Register our proposed plan of implementation. The poultry industry, obviously, is very much opposed to this move because in some cases it will mean additional overtime for inspectors. There have been discussions between counsel representing the National Broiler Council and our own General Counsel in the Department regarding the legal apparatus for conducting this new effort. We do not plan to implement that program until we go through rulemaking, so the industry will at that time be brought into the decisionmaking process. I anticipate that proposed rule being published probably within the next 30 days.

Senator COCHRAN. We understand that that could possibly cost the industry about $2 million annually.

Dr. HOUSTON. Or more.

Senator COCHRAN. Or more.

Mr. MCCARTY. May I comment on that, please?

Senator COCHRAN. Yes, Mack.

Mr. MCCARTY. As I understand it, the argument is really about an allocated time for the people to change their clothes when most of our poultry inspectors, you know, just come in and put on a coat and go to the line. Now, this may not be true in the case of the red meat industry—I don't know how much blood they get on them or anything of the sort, whether or not they need 15 minutes to change their clothes and 15 minutes to take a shower when they get through and put back on the street clothes—but it's not true in the poultry industry, and that's what we're arguing about and that's what we're incensed about and that's what we're worried about. Are you going to permit the labor union—that's what it amounts to—permit the labor union to dictate that we will have to pay 15 minutes—you'll have to pay and, of course, we'll have to pay eventually—you'll have to pay 15 minutes dressing time before and after—at the beginning of work and at the end of work for dressing purposes?

Dr. HOUSTON. I think in reviewing the history, you'll find that we did not agree with the earlier ruling and went to the Comptroller General to get further elaboration. We can't ignore the Comptroller General's ruling in this area. We have to implement it.

Now, we realize, as you pointed out, that many poultry inspectors, as soon as the line stops in the afternoon, within 1 minute they're out of the plant after they throw off their apron and are in the parking lot on their way home. We had two choices when we negotiated that contract. Number one was to let the inspector accumulate minutes during the week that were spent in work preparation time and then to put them on their time and attendance reports; for example, 2 minutes on Monday, 3 minutes on Tuesday, and so forth and add them up. That would be an administrative nightmare and it would be unenforceable. There's no way we could handle that situation. So at this point, we have gone with what we call the "Seven, Eight-Minute Rule." If

anyone spends less that 7 minutes a day in work preparation, they will get no overtime at all. If they spend over 8 minutes a day, they will get 15 minutes but no more; that's the cap. They cannot get more than 15 minutes a day. We hope by negotiating the "Seven, Eight-Minute Rule," those cases where the time spent is deminimus will not result in any extra costs to the industry. However, I want to be very candid: we have no control over how inspectors might suddenly start changing their clothes, changing habits, and that's in front of us also.

Mr. McCarty. It's a matter of just putting down on the time card that 15 minutes was used for this purpose, or 10 minutes was used for this purpose.

Dr. Houston. Well, they have to use it. There will be no coming off the line at 3:30 and out of the plant at 3:32.

Senator Cochran. I understand that there may be published also within the next few days, or weeks at least, a regulatory review plan for the Food Safety and Inspection Service. I think this is going to involve exemptions from inspections, prior labeling approval and slaughtering. Will there be an opportunity after publishing this plan for the industry to be able to comment and suggest changes in the regulations before they're implemented?

Dr. Houston. Very much so. We have not come to a final decision on all parts of that regulatory work plan at this moment and we have it under discussion with OMB. However, we have come to an agreement in one area; we will definitely study the whole matter of exemptions this year. That will cover all of the poultry industry and the red meat industry as well. We also most likely will put in that regulatory plan the matter concerning prior label approval which Mr. Sanderson talked about earlier today and which I commented on saying that we'd have something out shortly. Hopefully, that program will permit from 50 to 75 percent of the labels that are now approved at headquarters to be approved at the plant level and will greatly minimize some of the current regulatory burden. Beyond that, we have not come to a decision on whether or not we're going to announce further changes in post mortem procedures.

Senator Cochran. What are the long-range objectives of this plan? To make regulations less restrictive, or more restrictive, or more burdensome, or less burdensome, or more costly, or less costly?

Dr. Houston. I can assure you it won't be more burdensome.

Senator Cochran. What are you up to? You're trying to find ways to reduce the cost impact of regulations, are you not?

Dr. Houston. Certainly. Exactly. In the area of exemptions, I don't know how the industry is going to look upon that. If we start looking at some segments of the industry as possible candidates for exemption, that always raises a lot of concern by the industry as a whole in terms of competition—uniform competition. If we were to take, for example, certain small entities or small businesses and define them in a way that would exempt them from the inspection laws, that might be very helpful to small businesses, but, on the other hand, it might create some unfair economic advantages at the same time. But we are going to take a look at it.

Senator Cochran. I don't have any other questions for any members of this panel, but before declaring the hearing adjourned, I would like to ask if anyone here has any questions that you would like for

me to put to anyone here, or if you have any questions that I may have failed to raise that should have been raised. If anyone has any—Joe Frank.

Mr. SANDERSON. Senator, I don't believe that either of the people from OSHA spoke to the question that was raised about the keeping of records on individual employees for some 30 years.

Senator COCHRAN. That's right. I didn't ask that either. That was a question that was raised, I think by Mack McCarty. During his testimony he said that there was a recordkeeping requirement for exposure to hazardous substances and that they were under a rule to keep these records for a 30-year period. There was a question about whether there was any contact with these hazardous substances in broiler plants. Do you know anything about that, Mr. Gordon, or could you get us an answer to that question?

Mr. GORDON. Yes, I will.

Senator COCHRAN. Just drop me a letter with an answer to it and I can send the industry panel a copy of it and we'll put a copy in the record.

Mr. GORDON. I know it deals with—one substance would be, of course, asbestos that we've had problems with in the shipyards back in World War II and now it's manifesting itself through cancer. And that's part of the rationale, of course, for keeping records for 30 years. But as far as the toxic substances in the broiler industry, I'll have to look into that.

Senator COCHRAN. OK. I'd appreciate it very much and we'll get an answer to that in writing.

[The following response was subsequently received by the committee.]

U.S. DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
Washington, D.C., April 8, 1982.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agricultural Production, Marketing and Stabilization of Prices, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR SENATOR COCHRAN: During your February 16, 1982, hearing on regulation and the poultry industry, Mr. William W. Gordon, Regional Administrator for Region IV of the Occupational Safety and Health Administration (OSHA), was asked a question concerning OSHA's standard for Access to Employee Exposure and Medical Records. At that time he offered to furnish a written response to the question. I now submit to you OSHA's response, which is attached. I am also submitting an edited portion of the hearing transcript containing Dr. Suter's remarks.

We have been pleased to work with you during the past few months. If I may be of further assistance, do not hesitate to contact my office at 523-8021.

Sincerely,

ANTHONY E. GOLDIN,
Director of Policy, Legislation and Regulatory Analysis.

Enclosure.

Question. Why must the poultry industry comply with OSHA's requirement for maintaining employee exposure records for at least thirty years?

Answer. OSHA's standard on Access to Employee Exposure and Medical Records (29 CFR 1910.20) applies to each general industry, maritime, and construction employer who makes, maintains or has access to records dealing with employee exposure to toxic substances or harmful physical agents. Nothing in this regulation requires the employer to create such records if they do not already exist, but if there are employee exposure records, they must be preserved and maintained for at least thirty years. Employee exposure records include

data such as workplace monitoring results, biological monitoring results (e.g., blood tests), material safety data sheets, or any other record that reveals the identity of a toxic substance or harmful physical agent. This rule has been effective since August 21, 1980.

OSHA is now preparing to review the regulation to determine its effectiveness and impact upon the workplace. Among aspects of the standard that will be reviewed are its definitions of "toxic substances" and "employee-exposure record", coverage of employees who are only briefly exposed, and provision for trade secret protection.

Senator COCHRAN. Yes.

Mr. DALTON. Senator Cochran, I would like to make a statement in support of what Mr. McCarty said earlier.

Senator COCHRAN. Would you state your name for the record.

Mr. DALTON. Will Dalton. We are a supplier to the poultry industry selling various types of feed ingredients and antibiotics, and we have one particular antibiotic which I'd rather not identify, but we've been trying to get approved for a number of years in use with various types of coccidiostats and other medicated products, and it seems that when our people we represent go to the FDA to answer specific questions regarding that particular product, they're sent back to come up with additional information and data on that particular product to the point that it's taken several years and to this date we have not had it approved. And there's a product on the market that's very similar to it that has been approved and I just wonder what the procedure is and how long it normally takes to get a product like that approved.

Senator COCHRAN. Dr. Hayes, can you respond to that?

Dr. HAYES. Without knowing what the product is or what kind it is, it's hard to address it. Some products are approved, obviously, more quickly than others depending upon the nature of the product, what it will mean in medicated feeds if it gets into the human health chain.

Mr. DALTON. This is an enteric antibiotic that is not absorbed into the tissue of the animal.

Dr. HAYES. I'll be glad to find out about it specifically if I know what it is.[1]

Senator COCHRAN. Maybe you can whisper it to him after the hearing.

Mr. DALTON. I just don't want it to get shelved.

Senator COCHRAN. I don't think that would jeopardized——

Mr. DALTON. Zinc bacitracin.

Dr. HAYES. I take it as a compliment. We take all those we can get. shelved or shot down in the agency because the Commissioner asks questions. That's one of the few prerogatives that I have.

Mr. MCCARTY. And we wish to emphasize that the Food and Drug Administration has changed sharply during the last 2 to 3 years in that regard. Industry is aware of that.

Senator COCHRAN. That's a compliment.

Mr. MCCARTY. There is more cooperation on the part of the agency.

Dr. HAYES. I take it as a compliment. We take all those we can get.

Senator COCHRAN. I want to express my appreciation to all of you for being here and helping make this hearing a success. If any of you have any additional comments that occur to you later and would like to have them included in the record in the form of a statement or a letter, please feel free to send that to me in Washington. We will keep

[1] See p. 31 for the reply from Dr. Hayes in a letter to Senator Cochran.

this record of hearing open for a period of 30 days during which we will receive additional testimony or comments from anyone who is interested in submitting them.

I want to thank especially our agency representatives from Washington and Atlanta who have come such a long distance to be with us today and for preparing the testimony dealing with the subjects that we are looking into. I deeply appreciate your cooperation. And to our industry representatives who were here, I really do appreciate your fine contributions to the effort that we're making. We will write a report of this hearing and submit it to the Committee on Agriculture, Nutrition, and Forestry, and I think I will also provide a copy to the Vice President's Task Force on Regulatory Reform which has been engaged in activities of this sort for the past year with, I think, a great amount of success in terms of reduction, elimination of unnecessary regulations, trimming back compliance costs in other regulatory areas, and trying to help meet the challenge of economic recovery in that way.

I want to especially thank Mrs. Ruth Olenski who is our court reporter who has been with us for the day. Our staff assistants up here today have been Tom Clark, who's a lawyer—you won't hold that against him, I hope—with our committee in Washington, and Dr. Wayne Boutwell, who's on my personal staff in Washington who's from Newton County here, so we know he's got his feet on the ground. I thank all of you for being here. The hearing is adjourned.

[Whereupon, at 5:22 p.m., the subcommittee adjourned, subject to call of the Chair.]

APPENDIX

STATEMENT OF HON. G. V. MONTGOMERY, REPRESENTATIVE IN CONGRESS FROM THE THIRD DISTRICT OF MISSISSIPPI

Please allow me to begin this statement by commending Senator Cochran for taking the time from his busy Presidents' Day Recess schedule to hold these hearings on the poultry industry right here in the heart of poultry country. I do regret that previous commitments prevent me from attending these hearings for I have a strong interest in this industry.

During the debates on the farm bill last year the attention of the whole nation was focused on the problems and needs of the agricultural community. We sought an equitable and responsible reauthorization of the farm programs. Unfortunately, the bill did little to help the poultry industry, and I believe the attention we direct to their needs today is very important.

Mississippi can be very proud of her poultry industry. Nationwide, consumption of poultry products has grown dramatically with per capita consumption increasing over 30 percent in the last 15 years. We are the 5th largest broiler producing state in the country, and poultry and egg products combine to be the second largest agricultural industry in our state. There are 10,000 to 12,000 Mississippians directly employed by the poultry industry. Additionally, 2500–3000 farm families are under contract with the poultry producers. Last year the industry contributed $400 million in farm value to the agricultural income in our state. These are figures of an industry that is vital to the economy of our state, and as that industry is facing serious problems, I do hope that we will do all we can to assist them.

The economic upheaval in this country has left no group untouched, and certainly the poultry producers have felt the strong sting of inflation. They are a very responsible group of businessmen and women who have time and time again demonstrated their business acumen. In spite of their skillful efforts, the industry is depressed and our Mississippi producers have suffered monetary losses for the past three years. Tight money policies, high interest rates and spiraling inflation have hit hard and we must continue to seek solutions. Last week, I, along with fellow "Boll Weevils" met with Federal Reserve Chairman Paul Volcker and OMB Director David Stockman to discuss money policies and interest rates. I wish I could say that we left the meeting with solid answers. Unfortunately we did not, but we certainly were in accord on a strong commitment to keep this a top priority item in this year's Congress.

One avenue that should be open to the poultry industry for relief is a market expansion into foreign trade. They have diligently sought active export expansion only to be thwarted by conditions beyond their control. Just like the U.S. steel and auto industries, along with many others, the poultry folks have met with unfair government subsidization of the foreign competition. I am sure this issue will be discussed in detail by members of the industry today, but I do want to go on record as being strongly supportive of their need for relief. The petition they have filed with the U.S. Trade Representative for relief under Section 301 of the Trade Act has been accepted and I plan to continue urging Bill Brock to act responsibly and expeditiously on this matter. As a result of the grain embargo in 1980, the industry lost a 65,000 metric ton sale to Russia and never received any compensatory assistance from the government. They have never recovered from this loss, and I do believe our government should do everything they can to seek fair world trade conditions for this U.S. industry.

After the 1980 grain embargo was lifted, and in anticipation of the new long term grain negotiations with Russia, the Mississippi Poultry Association sought my assistance in encouraging the President to expand that agreement to include processed poultry and poultry products. I was pleased to contact Trade Representative Bill Brock to encourage this inclusion. When and if we resume grain

talks with Russia, I will continue to pursue this in their behalf. We must open up the world market to this industry.

As with every other U.S. business sector, the poultry folks suffer from a wide range of burdensome and unnecessary regulations. A very knowledgeable person in the area recently described to me the books of regulations that are stacked in her office 2 and ½ feet high. I was not surprised, but I was dismayed. Surely, we can get healthy chickens to the marketplace without so many layers of government requirements. The National Broilers' Council has submitted a request for relief from many unnecessary regulations to the Vice President's Regulatory Task Force, and I have written to the Task Force expressing my strong support of the Council's position. I would hope that these requests will be seriously considered, and as a result of this Task Force and the Regulatory Reform legisiation that is currently pending in the Congress, that there can be some relief in this area.

On more than one occasion I have become involved in pressing USDA to relax one of their absurd regulations that will not allow chickens cleaned and inspected for foreign markets requiring a deviation from U.S. standards to meet the importing nation's cultural and religious requirements. This is brazen bureaucracy at its worst and should be changed.

I am pleased to see a reform bill for the Food and Safety Act receiving attention this year. Although it may not make it through this Congress, it is encouraging to see growing support for more realistic food safety requirements. As a co-sponsor of this legislation, I am strongly in favor of the consideration of laws that more realistically consider a risk/benefit balance. I do urge the Committees with jurisdiction to hold early hearings and begin movement that could result in relief for the affected industries.

The poultry industry has been hard hit on three different fronts; the glum economic scene, oppressive over regulation and unfair foreign competition in the world market. I plan to continue to do all I can to break these hurdles for them, and I urge my colleagues in Congress to join me in this effort.

Thank you.

[The following recommendations were inserted by Marshall Durbin, Jr., see p. 3 for oral reference.]

The following recommendations were presented by the poultry industry to FSIS in 1981. We ask that you monitor progress in these matters.

1. INDUSTRY RECOMMENDATIONS

Only the inspector in charge (IIC) should have the authority to slow or stop a poultry slaughter inspection line. Further, the IIC should have complete and ultimate control over the decisions of on-line poultry inspectors.

2. INDUSTRY RECOMMENDATIONS

Poultry industry representatives should be afforded an opportunity to provide comments and other information with respect to USDA inspector union contract provisions under consideration during AFGE negotiations with USDA where such provisions will have cost or other implications with respect to poultry plant operations.

3. INDUSTRY RECOMMENDATIONS

USDA regulations should be amended to eliminate requirements other than final temperature, moisture level, and sanitation criteria for ready-to-cook poultry.

4. INDUSTRY RECOMMENDATIONS

Sanitation inspection is an integral part of the government's obligation to inspect poultry facilities, and as such, should be performed on the government's time, not on an overtime basis. In addition. USDA should work toward uniform interpretation and application of sanitation criteria.

5. INDUSTRY RECOMMENDATIONS

USDA should adopt a policy of water and energy conservation in poultry processing. In addition, USDA should work with industry and other government agencies to promote the reuse of water in processing operations.

6. INDUSTRY RECOMMENDATIONS

USDA regulations should be amended to provide for the sanctioning of USDA inspectors who, either through gross misinterpretation of USDA regulations or abuse to their discretion in the application of USDA inspection regulations, cause companies subject to USDA inspection to incur financial losses. A range of sanctions including adverse findings noted in such inspectors' personnel files and/or suspension or revocation of such inspectors' licenses should be available depending upon the severity of their conduct.

Other matters of concern that effect the poultry industry in Mississippi:

1. The possibility of reduced spending on agricultural research.
2. Barriers to trade with the EEG: A. The poultry industry has filed a Section 301 petition with the office of the U.S. Trade Representative asking for the elimination of unfair export subsidies in the EEC.
3. Some of the past appointments to the National Labor Relations Board. We ask that the Senator use his influence to assure the impartiality of future appointments to the NLRB.

STATEMENT OF JOE FRANK SANDERSON, PRESIDENT, SANDERSON FARMS, INC., LAUREL, MISS.

Mr. Chairman, I am Joe Frank Sanderson, president of Sanderson Farms, Inc. My company is a producer, processor and marketer of frying chickens, both in the United States and several foreign countries. I have been in the poultry industry for more than thirty years.

I appreciate the opportunity today to present my statement at these hearings.

All of us are familiar with the flood of regulations which have emanated from our Federal Government over the past several years. While the intent of these regulations in many instances has been to help solve perceived problems, in many other instances the effect has been to create more problems which have been very, very costly to the private business sector, and sooner or later, to consumers and the economy.

If we were able to measure the number of man hours spent in promulgating, communicating and enforcing the regulations of which I speak, that cost in itself would be tremendous. But the real cost to the economy is presented in efforts to comply. There is simply no way to measure what costs are involved in the compliance procedure, and these costs of course are finally added to the consumer's food bill.

In a newspaper column recently, which unfortunately I did not clip, I read that the promulgation of regulations decreased dramatically in 1981 from some 90 thousand pages of the Federal Register, down to 60 odd thousand pages. I submit that 60 odd thousand is still a considerable amount of pages of regulations that business must interpret and spend large amounts of time and effort in getting into place for compliance.

I wish to use a few examples of what we must contend with by regulatory action within the poultry industry:

Mr. Chairman, Congressman William C. Wampler of Virginia has recently introduced (by request) H.R. 5268 which would permit interstate shipment of meat and poultry products from state inspected plants. I have written to Congressman Wampler and expressed by concern that this proposed legislation could have some very unwelcome results. I oppose the legislation on the basis of my experience in changing a plant from a State-inspected program to a Federal-inspected program. Even though State programs are supposed to be equal to the level of Federal inspection, I did not find that to be true, nor do I believe it possible to formulate a system of State inspection programs that would be uniform. The unwelcomed effects could be economic disparities in costs and more importantly, a deterioration of consumer acceptance of the quality of poultry products presented.

The United States Department of Agriculture requires that each label to be used on poultry products must be approved by its meat and poultry standards and labeling division in Washington, D.C. prior to use on product. To obtain label approval a processor must first submit final sketches or example for final approval.

These procedures are time consuming, duplicative and expensive. In fiscal year 1980 alone it was reported that USDA processed more than 104,000 label

approval applications. In addition there is frequently the absence of regulatory guidelines dictating label format. USDA relies upon some formal regulations and many informal guidelines such as its "policy book". Errors and/or misinterpretations are frequent. This label approval procedure employed by USDA discourages the formulation/labeling of new poultry products, delays the transaction of day-to-day business of unprocessed poultry, and sometimes results in the loss of a sales contract because of label delays.

In my opinion there is no sound reason that the USDA should not adopt new labeling policies which would provide for a guidelines handbook and allow the processor to design and use labels if those labels were in conformity with the requirements. USDA should adopt a program where a company could utilize a standardized label without the necessity of prior approval.

I understand USDA has this problem under study at the present time. I personally however, have communicated with USDA personnel regarding the problem for more than twenty years without seeing any significant movement.

Another problem which we in the poultry industry experience is one we refer to as "over inspecting". In April of 1981, USDA implemented a new inspection procedure called "modified traditional inspection", which converted all 4-inspector broiler slaughter inspection lines to 3-inspector lines. The first inspector on this line visually inspects the outside of poultry through direct visual examination with the aid of mirrors. This inspector does not touch or handle the poultry. Each inspector is provided two plant employees called "trimmers" who remove damaged or unsightly portions of the poultry at the inspector's direction. Since this inspection is virtually all aesthetic, it could easily (and as efficiently) be performed by the trimmers themselves, thus eliminating one Government inspector from each line.

In testimony before the Senate Appropriations Committee in March of 1981, USDA said that in fiscal year 1980 the Government saved approximately three million through the implementation of the new inspection procedure. USDA currently operates 320 modified traditional inspection lines. An USDA poultry inspector earns approximately $18,000 per year. The elimination of 320 positions (one inspector per line) could result in a savings to the Government of $5,760,000 annually.

In its Senate Appropriations Committee testimony, USDA also estimated that poultry plants had realized a 16-percent increase in productivity due to the implementation of modified traditional inspection.

I recommend that USDA eliminate the requirement for an outside inspector on all broiler slaughter modified traditional inspection lines. This leaves a total of two inspectors per line to examine young chickens, with no lessening of consumer protection.

USDA's poultry products inspection regulations require continuous, bird-by-bird postmortem inspection of all poultry. In addition, all other plant operations (such as preoperative sanitation, cutup, packaging, etc.) are also performed under continuous USDA supervision. USDA utilizes a system of checks and balances via supervision structure. Inspection problems can be handled at the plant level, the area level, circuit level, or regional level. Failing a resolution, the Government or business can appeal to USDA at the Washington level.

For some years, USDA has been utilizing an inplant compliance review group, the duty of which is to periodically visit poultry (and meat) slaughter and processing plants and "rate" their effectiveness. This rating system since 1978 has been used to publicize the names of plants not operating under conditions satisfactory to USDA. These periodic, unannounced inspections are objectionable not only to plants, who have continuous inspection during every moment of operation, but to inplant USDA employees as well. The review program has engendered extreme animosity in USDA field personnel.

Another impact, USDA inspectors in the plants, and plant operator/employees would realize a greatly increased sense of duty and morale boost in the absence of this totally unnecessary compliance program. Plant productivity would increase as well in that operations do not have to stop when these unannounced inspection visits occur.

I would recommend USDA totally eliminate the plant compliance review group. The current supervisory structure is capable of handling any compliance situation.

It is my understanding that in a recent reorganization, USDA has dropped that "rating system" but that the inplant compliance review group still exists.

Mr. Chairman, these are but four of the very serious regulatory problems that people and companies within our industry experience from day to day. There are literally thousands upon thousands more which have a severe impact on the productivity of these companies. We appreciate the opportunity to cast light upon the effects of unwise and un-needed regulatory actions and we sincerely hope action will be taken to lessen these un-needed burdens upon our industry.

Thank you.

STATEMENT OF H. F. MCCARTY, JR., PRESIDENT, MCCARTY-STATE PRIDE FARMS, INC., MAGEE, MISS.

I am H. F. McCarty, Jr., president of McCarty-State Pride Farms, Inc., headquartered at Magee, Mississippi, an integrated broiler operation consisting of growing operations, hatcheries, feed mills, processing plants, and distribution facilities located in Magee, Forest, and Jackson, Mississippi. I wish to discuss four matters which involve regulations or requirements of government agencies which adversely affect the broiler industry in Mississippi. Two of these problems involve the Occupational Safety and Health Administration (OSHA), the third involves the Employee Retirement Income Security Act of 1974 (ERISA), and the fourth deals with the Food & Drug Administration (FDA).

I. CITATION: 29 CFR 1910.95 (C)–(S) AND APPENDICES A–1 AND FEDERAL REGISTER VOLUME 46, NO. 11, FRIDAY, JANUARY 16, 1981, PAGES 4077 THROUGH 4179

The first problem deals with an amendment to OSHA Regulations dated January 16, 1981, requiring hearing protectors, exposure monitoring audiometric testing, and training for all workers exposed to noise levels exceeding 85 decibels for an eight-hour period. Further, it requires periodic testing if any changes are made in process, equipment, or personnel assignment. For the broiler processing industry, this would mean a continuous monitoring and testing program.

Because broiler plants are required to have hard surfaces such as stainless steel equipment and tile walls to meet USDA sanitation requirements, it is especially difficult to reduce noise levels below 85 decibels. It is estimated that this requirement will cost the broiler industry at least $100 per worker. There are 14 plants in Mississippi. Using an average number of 275 affected workers per plant, it will cost the broiler industry in Mississippi approximately $400,000 to comply.

The technology has not been developed to provide materials that meet both USDA and OSHA requirements to solve this problem.

Employers now provide hearing protectors to workers exposed to 90 decibels or greater, but some employees choose not to wear these protectors. This results in possible violations and fines by OSHA. By lowering the requirement from 90 to 85 decibels, practically all of the employees in our processing plants will be affected. The potential violations and fines will be greatly increased. It appears that it will be extremely costly and perhaps impossible to comply with the new regulation.

We would recommend that the regulation be made voluntary, not mandatory. With proper incentives, employers would be able to work toward a combination of lowered noise levels and employee hearing protection.

II. CITATION: THE EMPLOYEE ACCESS TO MEDICAL RECORDS REGULATIONS, 29 CFR SECTION 11910.20 (1980), 45 FED. REG. 35212 ET. SEQ. (1980)

The second problem deals with a proposed regulation of OSHA also. This regulation establishes the right of employees and their designated representatives to have access to certain medical records and records of employee exposure to hazardous substances. It also authorizes OSHA's access to such records. The regulation requires that employee exposure records be maintained for 30 years.

The regulations impose burdensome recordkeeping and paperwork requirements on virtually all employers and endanger the confidentiality of trade secrets.

These regulations provide employees and their unions with an unprecedented ability to demand access to sometimes sensitive information with no effective assurances that this information will not be used to the detriment of the employer. They also place time consuming and expensive administrative and record

maintenance requirements on employers. The broad scope of these regulations and the fact that many key issues are not addressed mean that these regulations will become the focus of needless and useless controversy between unions and employers. These regulations should be revoked or revised to limit their applicability to those industries whose employees are exposed to significant quantities of toxic chemicals. This will not include broiler processing plants.

III. CITATION: REPORTING AND DISCLOSURE REQUIREMENTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 ("ERISA"), 29 C.F.R. SECTION 2520 ET SEQ.

The third problem area deals with a regulation proposed by the Department of Labor involving Reporting and Disclosure Requirements under ERISA.

Employers offering retirement benefit plans are required to file with the Secretary of Labor extensive documents including a plan description, annual reports, financial statements, and a report of an independent qualified public accountant. In addition, much of this information is to be disclosed by the employer to the plan participants.

While actual cost figures are not available, employers could save dozens of hours weekly presently spent updating ERISA records. The costs of independent CPA reports would be saved, as well as costs involved in annual publication of descriptions, financial statements, and the like.

The reporting and disclosure requirements under ERISA comprise fifty-nine (59) pages. They are extremely detailed, confusing and onerous. It is recommended that these regulations should be simplified and reporting requirements greatly reduced so as to be easier to understand and less burdensome on employers obliged to comply.

IV. CITATION: 21 CFR PART 514—NEW ANIMAL DRUG APPLICATIONS

The fourth matter which I wish to discuss involves Food and Drug Administration and new drugs which impact the broiler business.

The data requirements for approving new animal drugs and other feed additives are complex and unclear. They are expensive to fulfill and the process of obtaining a clearance is at times unduly prolonged. As a result, there has been a decline in the productivity of research and development effort in the animal drug industry, and increases in efficiency of animal production have been curtailed due to this decline in effort. These effects ultimately show up in the market as increased prices consumers must pay for foods from animals.

As a result of the requirements for approving new animal drugs and the regulatory procedures employed by FDA, the costs of developing and testing new animal drugs have risen sharply, and the rate of approval of new drugs has been cut in half. The number of new animal drugs approved from 1965 through 1967 was 10; whereas, only 5 were approved from 1975 through 1977. The average cost in deflated dollars to obtain approval for a new animal drug increased from $13.8 million in 1965–1967 to $36.4 million in 1975–1977.

In addition, the regulatory procedures employed by FDA discourages the development of both major drugs for minor species and minor drugs for major species of animals. The ultimate effect could be a failure to utilize effectively the available chemical and genetic potential that will be needed as new sources of productivity in the future.

We recommend that the process of approving new animal drugs could be accelerated and made more efficient if the information to be required were clearly specified in writing at the beginning of the process and if some allowance were made for the changes in requirements that are introduced after the manufacturer has committed resources to obtaining the information specified initially. Changes in requirements currently result not only from new developments in regulations, but also from differences in interpretations and personal views as new FDA personnel become involved in the approval process.

We understand that FDA leadership recognizes this problem, and is moving to improve the situation. We welcome this consideration of the poultry producer's need.

Thank you for this opportunity to discuss certain problems which we feel adversely affect our poultry industry.

SUPPLEMENTARY DATA TO STATEMENT OF DR. EARL C. WALSH, GREEN ACRE FARMS, INC., SEBASTOPOL, MISS.

I. Competive Grading Standards of U.S.A. poultry products with that of other competing nations (i.e: France and Brazil).

At present, under the U.S.D.A. system the United States has a far superior system of inspection and grading than any other nation in the world. This is very commendable for the American consumer and also for export customers. The difficulty however lies in the fact that other countries have basically adopted the same "written" policy and procedure but the other countries do not force or ensure that the inspection and grading actually occurs. In the U.S.A. Green Acres has eleven inspectors and graders to enforce the regulations. A similar French plant has only one governmental inspector that supposedly is performing the same tasks as eleven in the U.S.A. plants.

This results in an inferior product being put on the market by foreign competitor's yet they say it was packed to the same standards as established by the U.S.D.A. This puts the U.S.A. exporter to an unfair disadvantage and we cannot effectively compete economically. We would recommend some alternatives to assist the U.S.A. poultry producers to overcome this disadvantage.

1. An evaluation team of U.S.D.A. Inspectors and graders evaluate foreign performance as compared to U.S.D.A. standards.

A. A comparison of written standards;

B. Observation of actual practices in foreign plants;

(1) Wholesomness and bird health;

(2) Sanitation policies and practices;

(3) Triming and condemnation types;

(4) Grading on conformation, feathers, bruises, blemishes, skin covering; and

(5) Staffing comparison (one versus eleven).

C. A formal written statement that U.S.A. producer can use as a documented sales tool as to the superiority and safety of U.S.A. products.

2. A modification of U.S.D.A. procedures that will enable U.S.A. producers to produce an "export only" product that is produced in the same manner as foreign suppliers.

We feel that there should be a reconciliation between the number of required inspector's in U.S.A. plants and improved U.S.A. quality or that our foreign competitor's are truly putting out a sub-quality product. We feel a U.S.D.A. evaluation team could either provide this quality deficiency evaluation or discover methods of inspection in foreign plants that would enable a 90 percent inspection staff reduction in our U.S.A. plants.

II. Foreign Government subsidy programs to our foreign poultry competitors are unfair trade practices in violation of our mutual countries trade agreements. This single practice has consistently limited the U.S.A. from being the number one exporter of poultry. We can produce and deliver poultry cheaper any where in the world than any other country given a free market situation. We recognize the Administrations efforts in this regard but we recommend:

(1) Senatorial support of the Dept. of Agriculture's efforts to relieve the G.A.T.T. imbalances.

(2) Restrictive trade barriers on French products if they do not cease and desist their excessive subsidies on their own initiative.

(3) A coordinated effort by both the legislative and administrative branches of government supported by all U.S.A. exporters facing similar restrictive trade barriers and disadvantages.

III. In conjunction with Dr. Walsh's testimony Inspection and grading problems of product sold to the government for the School Lunch Program, we submit copies of three letters which define the problem.

(1) Green Acre Farms letter to Pierre Boucher, Commodity Procurement Branch U.S.D.A. dated December 15, 1981.

(2) Mr. Boucher's response dated January 12, 1982.

(3) Mr. C. V. Stewart, Fed—State Supervisor, letter dated January 15, 1982.

As detailed in the letters, it appears that private contractors are required to adhere to two different sets of requirements—one from the Inspection service and a subjective evaluation of the Grading Service. We would recommend an in depth evaluation of the two requirements and a coordination of both that would

prevent a contractor from getting "caught in the middle" between two governmental agencies separate interpretations. We would be willing to help on this problem but we need agreement of both Inspection and Grading in the future.

GREEN ACRE FARMS, INC.,
Sebastopol, Miss., December 15, 1981.

Re: Discount of three cents per pound ($3,240.00) on contract 1–4332.
Mr. PIERRE C. BOUCHER,
Chief, Commodity Procurement Branch, Poultry Division, A.M.S., U.S Department of Agriculture, Washington, D.C.

DEAR SIR(S): An unreasonable and totally capricious action has been taken by your organization in direct conflict with the governing contractual obligations which resulted in excessive handling costs, expensive delays and the arbitrary and illegal deduction from our contractual payment. In light of this, Green Acre Farms requires immediate reimbursement of all funds and expenses so incurred and assurances from all related U.S. Dept. of Agriculture branches involved that this type of unfair practice and harrassment has been ceased and has been permanently eliminated.

Allow me to restate the chain of events that have occurred and other pertinent data that has come out on this issue:

1. Green Acres is the largest single producer of school lunch product in the country and as a normal practice produce school lunch product on a daily basis: $8,600,000 plus annually.

2. The product in question was produced in our Sebastopol plant on 09–14 to 09–18–81. This product was produced under the careful inspection and testing procedures of USDA Meat and Poultry Inspection Service (certificate attached noting moisture test for those days) and graded by the FSQS-Poultry Grading in plant staff (fresh certificates attached noting full compliance).

3. This product was properly held as per regulations and shipped fresh to be frozen at an external freezer (p–1701) in Crystal Springs, Ms. (see certificates PPA–905490; PPA–905493; PPA–905500).

4. Other product both frozen in Sebastopol that week and also frozen at other locations was handled in exactly the same manner. No other rejections or adjustments were received.

5. On Sept. 24, 1981, the official Grader, Von Harold Wilson issued grading certificates PPA–904530 and PPA–904531 (attached) rejected the product in question and stated: "Product does NOT meet requirements of announcement PY–97. (Because of Excessive Weapage.)"

Please take specific notice as to the total extent and reason for the rejection on this report was for weapage—at a later time the rejection excuse is embellished and made more elaborate which is an improper practice. It is our understanding that a regional Grading officer from Arkansas was visiting the Crystal Springs facility that day specifically to evaluate school lunch moisture and weapage. Apparently, this individual was having conflict or disputes with other contractors. We cannot verify this but it would explain the cause of the entire problem.

6. The product was eventually shipped on October 1st and 2nd, 1981 (see PPA—904537; PPA–904538, and PPA–904540 also enclosed are the work sheets on these loads specifically noting overpack amounts. Please note the following items:

CERTIFICATE PPA–904537

a. "Frozen within time limit [√] Yes"
b. "Internal Temperature of frozen product when shipped —10° F"
c. 15 cases tested weighed and 10 cases marked with an "X". Mathematically, these 10 cases (66% of sample) showed an average case weight of 30 lbs. 8 oz. or and overpack percentage of 1.66%—no product shortage were noted.

CERTIFICATE PPA–904538

a. "Frozen within time limit [√] Yes"
b. "Internal temperature. . .—12° F"
c. 9 cases "X" (60%)—overpack percentage 2.04%.

CERTIFICATE PPA–904540

a. "Frozen within time limit [√] Yes"
b. "Internal temperature . . . —10° F"
c. 11 cases "X" (73%)—overpacked on those 1.43%.

The above certificates by the Inspection Service in our plant state that we have complied with the moisture requirements, our in plant Grading Service say we have complied with all handling procedures and the external Grader certificate that the product was frozen within the time limit and at the proper temperatures. Also our overpack shows that the Government received more than required weight in the cases.

The above documented results prove by analytical testing procedures established by the government that our product was in full compliance. These documented facts are apparently being overruled by an opinion based on a poorly worded and undefined-statement of "excess weapage." That opinion also being affected by external-non-routine pressure by a visting Grading Official.

Furthermore, we object and refute the arbitrary assessment of .03¢ per lb. adjustment forced upon us by your organization that did not review the results but pulled the figures out of the air. The attitude of "take it or leave it" expressed was unexcusable and not in the best interest of sound governmental purchasing. We were not in a position to have the exposure of $60,000 tied up procedurally as we gather the real facts.

In summary, we have given proof of our contractual compliance on moisture. We have shown no product deficiencies. We also make the following recommendations:

1. The weapage evaluation should be stricken as unenforceable as long as moisture time limit are adhered to in production.
2. Eliminate duplicate testing and retesting if product has already been approved by a prior inspection and grading.
3. Eliminate the interdepartmental conflict that occurs between Inspection and Grading. Either accept the others results or eliminate dual and repetitive compliance. Reduce your costs and also ours.
4. Eliminate the pressure applied to the various services to cover themselves from outside visiting review that are "looking for problems".

Therefore we expect full reimbursement of $3,240 and expenses and satisfactory solutions to the other problems noted. Thank you for your prompt attention to this matter.

R. R. WISE, *General Manager.*

INVOICE—DECEMBER 23, 1981

Mr. PIERRE BOUCHER,
Vendors Invoice Payments,
Prairie Village Commodity Office,
Kansas City, Mo.

Credits unjustly taken	$3,240.00
Grading fees duplicated	90.00
Delayed payment on original amount (20 days) and delayed payment on credit (60 days)	10.00
Storage and handling fees, reinvoicing	360.00
	3,700.00

U.S. DEPARTMENT OF AGRICULTURE,
AGRICULTURAL MARKETING SERVICE,
POULTRY DIVISION,
Washington, D.C., January 12, 1982.

Mr. R. R. WIESE,
General Manager, Green Acre Farms, Inc.,
Sebastopol, Miss.

DEAR MR. WIESE: This is in response to your letter of December 15, 1981, concerning the discount of 3 cents per pound on three delivery units of chicken under contract 1–4332.

On September 30, a member of my staff had a telephone conversation with John Roby, a representative of Green Acre Farms, Inc. Both parties agreed that

any product under contract 1–4332 determined by Grading Service as failing to meet the requirements of Announcement PY–97 because of excessive weepage would be subject to a 3-cent-per-pound discount. Green Acre Farms concurred to that agreement by a wire dated September 30, 1981. The contract was amended on October 1, 1981.

Also, we were advised by the Grading Branch that product no longer meeting USDA Grade A requirements because of the weepage would meet the requirements for USDA Grade B. The difference between the market value of USDA Grade A and USDA Grade B is 3 cents per pound. This difference was the basis for the amount of the discount.

Accordingly, Green Acre Farms, Inc., is bound to the adjusted price discount as a term and condition of the contract.

Under these circumstances, our decision will remain unchanged.

Appeal rights are provided in Article 47 of USDA–1, as amended.

Sincerely,

PIERRE C. BOUCHER,
Chief, Commodity Procurement Branch.

U.S. DEPARTMENT OF AGRICULTURE,
AGRICULTURAL MARKETING SERVICE,
Jackson, Miss., January 15, 1982.

MR. MALCOLM CLARK,
Plant Manager, Green Acre Farms,
Sebastopol, Miss.

DEAR MR. CLARK: It has been brought to my attention that cut-up school lunch product is being held in the cooler 3 to 5 hours before going into the blast freezer. As discussed with you in September and October of 1981, this much time before entering the freezer permits the allowable moisture left in bird to weep out into bottom of bags and boxes. Page 7, last sentence of paragraph 3.1—Announcement 97 reads as follows, "moisture (ice) present shall not exceed occasional small areas showing a thin layer of clear as pinkish colored ice".

I expect you to correct this problem before we get into the same situation that occured in 1981, when three loads were rejected for excessive free moisture.

If I can be of any assistance, give me a call.

Sincerely,

C. V. STEWART,
Fed.-State Supervisor.

STATEMENT OF ARTHUR HULL HAYES, JR., M.D., COMMISSIONER OF FOOD AND DRUGS, FOOD AND DRUG ADMINISTRATION, PUBLIC HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Chairman, I want to thank you for providing this opportunity for me to testify on Government regulations which relate to the production, processing, and export of poultry.

As you may know, I had the privilege of addressing these same issues and concerns during a tour of poultry industry facilities in the Gainesville, Georgia, area in December 1981. This tour was under the auspices of the Southeastern Poultry and Egg Association which has its headquarters in Atlanta.

Although some of you here today may have heard my views and comments in Georgia, I believe that the issues and questions apply equally for the Mississippi poultry industry, and I would like to reiterate some of them for you today.

I was asked a question which I believe to be representative not only of the poultry industry but of every industry regulated by the Food and Drug Administration.

The question was: What do I see as the most significant set of problems confronting the poultry industry, and how do I view the role and relationship of the Federal Government—especially the Food and Drug Administration?

My answer at that time holds true today and will continue to hold true for some time to come: In my judgment, the most significant problem confronting us all—industry and Government alike—is the pressure brought about by today's economic conditions.

There is no doubt however, in my mind, that antennae are sprouting up every where in search of a way—any way—to relieve the economic pressures of high interest rates, high fuel costs, high transportation costs, high labor costs, and other costs associated with the production of wholesome poultry products.

Included in these economic pressures are the increasing costs of Government regulation, a part of which involves FDA's role in the approval of safe and effective new animal drugs and feed additives. Another obvious economic pressure is approval time, because, in our economy, time is money.

We at FDA, and especially my colleagues in the Bureau of Veterinary Medicine, are aware of the economic casualties that occur when unnecessary and unjustified delays in NADA approvals are experienced by the animal health industry. We have taken steps to deal with such delays by implementing the "Fast Track" NADA review process, and by conducting self-assessments of the so-called drug lag problem. And we want to be more responsive to the poultry industry (where possible and appropriate) to assist you in alleviating your economic pressures, while still, of course, carrying out our basic mandate of consumer protection.

I'm sure you are all aware of the increasing criticism from a number of areas that FDA's requirements for the approval and continued marketing of drugs have contributed to what is called "drug lag" in the United States. The term is most often used in the human drug area, but I am beginning to hear this complaint expressed by people in the animal production and animal drug business as well.

The Animal Health Institute recently shared with the Agency a comparative analysis of availability of animal drugs between the United Kingdom and the United States. According to AHI, some 24 drugs were listed as available in the U.K. and not the U.S.A. But a quick analysis of the products listed suggests that the U.S. development and approval of drugs for poultry use appears to be keeping pace with the U.K. and, perhaps, the world.

A thumbnail view of the future can be gained also by looking at drug products for poultry use in the review pipeline of the Bureau of Veterinary Medicine. At the present time, ten new animal drug entities are pending before BVM for evaluation in either the INADA or NADA stage which are intended to be marketed for use in poultry feeds for control/prevention of coccidiosis or for use as an antibiotic for disease or production purposes. An additional six "me-to" NADAs and 16 combination NADAs for use in poultry feeds are pending approval. At this time, we have accepted thirteen new animal drug applications for "fast track" designation, with half being for food animal use.

We are still very much in the early stages of the learning curve in initiatives to speed up the review process. Yet our experience to this point has been gratifying. Time, of course, will tell just how successful we will be in contributing to solutions to the animal drug lag criticism. But I pledge to you my commitment to address this problem and to do whatever is necessary to remove unnecessary barriers to the development and approval of new animal drugs.

Another issue which concerns all of you here, I'm sure, is the minor use of drugs in animals—sometimes referred to as the "orphan drug" issue.

As you know, there are no approved drugs for many diseases of minor species such as game birds, ducks, fish, goats, and rabbits. Further, there are no approved drugs for some minor diseases in major species; ornithosis in turkeys, for example. Research and development costs are greater than potential profits; consequently, there is no economic incentive for developing the data necessary for approval of these drugs.

Because minor-use are not available, livestock and poultry producers may use or be tempted to use unapproved drugs, that is, drugs other than for the species intended. To resolve the problem, the FDA proposed a regulation to permit minor-use drugs. It delineated minimal requirements for approval of these drugs. Based upon public scrutiny and subsequent comments received on both the proposed and the draft guidelines, we intend to publish the final minor-use drug regulation in late Spring or early Summer of 1982.

Although the FDA is proposing a method for approval of minor-use drugs in animals, it cannot support research on these drugs. Funds must come from producer organizations, drug companies, or from public funds, similar to the Interregional Research Project No. 4 (IR4), a national agricultural program for clearance of pesticides for minor specialty use on plants. The Animal Health Science Research Advisory Board has recommended to the Secretary of the U.S. Department of Agriculture that $100,000 be committed to IR4 for a feasibility study on minor use of drugs in animals, but the outcome of this recommendation is uncertain. The availability of public funds depends on requests from Government agencies and subsequent Congressional approval.

My approach to the issues I've described reflects my basic regulatory philosophy. I believe that regulation is an important element in consumer protection, but should be imposed only when alternatives are inappropriate or ineffective. I believe strongly in the private sector taking a positive view of its own role in consumer protection. The Government should issue regulations or impose new burdens on regulated industry only when necessary, and when the results clearly will be beneficial to the public health.

I further believe that we in Government must work with industry toward our mutual goal—safe and effective products. To the extent that an adversarial relationship has developed over the years between FDA and some of its constituencies, let me assure you that I intend to chnage that relationship. We have more in common than we have differences. And together we must build upon those common strengths.

To be sure, there always has to be a natural, healthy tension between FDA and regulated industry. That is the nature of our roles. We are, after all, regulators who represent the public health, and we often must impose rules to carry out our legal mandate of health protection.

We, industry and FDA, must, however approach each other with a spirit of cooperation, not confrontation. There will be times when industry and Government won't agree, but that doesn't mean we can't discuss it. And occasions such as this lead me to believe that together we can accomplish much for all concerned.

STATEMENT OF DR. DONALD HOUSTON, ADMINISTRATOR, FOOD SAFETY AND INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman, I am pleased to have this opportunity to appear before the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices of the Senate Agriculture, Nutrition and Forestry Committee.

The role of the Food Safety and Inspection Service is to ensure that the Nation's supply of meat and poultry is safe, wholesome, and correctly labeled. Under the Federal Meat Inspection Act and the Poultry Products Inspection Act, FSIS inspects all meat and poultry used for human food that is prepared for interstate and foreign commerce and intrastate commerce within certain "designated" states. This includes all raw meat and poultry as well as processed products such as sausages, luncheon meats, frozen dinners, and soups made with meat and poultry.

FSIS is responsible for applying uniform standards for sanitation, inspection procedures, and product labeling at all establishments under Federal inspection. We review 27 State-run inspection programs—including Mississippi's—to assure that States apply standards that are "at least equal to" Federal standards. We also have the responsibility to review foreign inspection systems and plants that export meat and poultry to the United States.

More than 8,000 FSIS inspectors provide routine Federal inspection at 7,100 plants in the United States and monitor inspection in foreign plants that export to the United States. In 1981, we inspected about 4.5 billion birds and 131 million head of livestock at slaughter to detect and remove diseased, unwholesome and otherwise adulterated carcasses from food channels. Our budget for 1981 was $294 million.

Here in Mississippi, 232 FSIS inspectors monitor 51 Federally-inspected meat and/or poultry plants. Of these 51, 18 broiler plants, producing 1,121,000,000 pounds, making Mississippi fifth in the United States in broiler production. In addition to the Federal program, the State of Mississippi conducts inspection in 94 plants which market their products only intrastate. The Federal government provides Mississippi with nearly $840,000 annually to assist in funding its inspection program.

As you may know, in 1981 we commemorated the 75th anniversary of the Federal Meat Inspection Act. This event gave us all—government, industry, and consumers—a chance to reflect on the achievements of the inspection program and the problems still to be tackled. In the past, our focus has been on routine physical and visual examination of all meat and poultry products to assure wholesomeness, safety, and truthful labeling. But innovations in science and technology are significantly altering the traditional role of the inspector.

As you know, the poultry industry has undergone tremendous growth and change in the last few decades as it has striven to meet consumer demand through technological and managerial innovation. The industry has become in-

creasingly integrated while birds have become more-and-more homogenous. Because they are slaughtered at younger ages, they are more likely to be disease-free. Sophisticated slaughter and processing equipment, increased linespeeds and other modifications have allowed the industry to market an expanded array of products efficiently and rapidly. Obviously, these developments have dictated adaptive change in government inspection activities.

One of industry's concerns has been the need to increase the speed with which inspectors could work so that plants could slaughter at a faster rate. Several solutions to that problem have been suggested. One is simply to increase the number of inspectors on a production line and have them look at every other bird—or every third or fourth. While this allows birds to move more quickly on the line, it creates new problems. One is that our inspectors take up valuable space in a plant. Also, we quickly reach a point of diminishing returns when inspectors are waiting for the specific carcass they are to inspect.

We face another problem as well—that of increasing costs. Over the past 20 years, the budget for meat and poultry inspection has risen from $30 million in 1960 to last year's $294 million. Inflation is just one of the reasons for this increase. USDA has had to take over a number of State inspection programs as the States determined they could no longer afford to operate them. Last year alone, five States asked us to take on their programs. The inspection activities in these States—Arkansas, Idaho, South Carolina, Michigan, and Rhode Island—increased our budget needs by nearly $3.5 million. Since 1977, the designation of seven State meat inspection programs and two poultry programs added $4 million to our budget.

Another factor in the cost increases is the need for more inspectors to handle the expanded poultry slaughter. In 1960, per capita consumption of chicken was 28 pounds; for all poultry, the amount was 34 pounds. By 1980 consumption had risen to 50 pounds for chicken and 60 pounds for all poultry. While there are many reasons for this increase, the jump would not have been possible without continued consumer confidence in the nation's poultry supply.

For these reasons, the Department has chosen to minimize the productivity cap on the poultry industry by modernizing inspection procedures. New methods of inspection allow our people to do their jobs more effectively and efficiently, while providing the same level of consumer protection.

It is important to point out that the cost of inspection as a percentage of the value of meat and poultry produced is going down. Comparing our appropriation with industry figures supplied by the Department of Commerce, we can see that the index has steadily declined since 1977. This declining index indicates that either the cost of producing meat and poultry products is rising more rapidly than the cost of inspection or that the program is becoming more efficient. We believe that at least some of this decrease is due to increased productivity within the program.

Our ongoing effort to improve inspection—including changes already in place and others still being developed—has already produced improved productivity for the Agency. In recent years, while the amount of inspected product has increased, FSIS has been able to carry out its responsibilities with a decreasing number of inspectors.

The trend can be illustrated by statistics from the last four years. In 1978, 8,394 USDA inspectors inspected 49 billion pounds of slaughtered meat and poultry and 92 billion pounds of processed products. By 1981, we were inspecting 51 billion pounds of slaughtered product and 108 billion pounds of processed product—but the number of inspectors needed declined to 7,700.

These apparent gains in productivity were accomplished through new, more efficient inspection procedures which have had similar positive impacts on the productivity of the regulated industry. Using 1978 as a base year, we see that USDA inspectors in meat and poultry processing plants were 10 percent more productive in 1979, 19 percent more productive in 1980 and 25 percent more productive in 1981. The gains in slaughter, while not as high, are also significant—after leveling off in 1979, inspectors were 10 percent more productive in 1980 and 12 percent more productive in 1981.

At the core of our effort to improve productivity are changes to basic poultry inspection. Several years ago we recognized that the one-inspector-one bird approach to inspection could—and should—be modified. We discovered that a group of inspectors arranged in a series, each inspecting only a part of the carcass could operate more efficiently. Each inspector could examine more birds in the same amount of time. As a result of our studies, in May of 1979 we introduced

Modified Traditional Inspection or MTI in broiler plants. MTI has helped inspectors eliminate inefficient or unnecessary motions.

As a result of this procedure we have been able to increase the inspection rate from between 54 and 66 birds per minute to 70 birds per minte. Depending on the slaughter line configuration in a plant, that was an increase of from 6 to 30 percent. In addition to improving industry productivity, this has also saved us $2.8 million a year through reduction in need for inspection personnel.

More improvements in poultry inspection are on the horizon. Several months ago, we tested one version of a sequenced inspection procedure in a large modern broiler plant in Arkansas and have just completed evaluation of the data. This procedure uses 4 inspectors—1 inspects the outside of the carcasses with the aid of a mirror; another uses a mirror to inspect the viscera which has been removed from the carcasses and hung on a separate line; and 2 inspectors examine the inside of the carcasses. The results of our study indicate that this procedure can be used effectively at line speeds up to 85 birds per minute. This obviously is a tremendous gain in productivity for the industry. However, to run at such speeds it is absolutely necessary that the carcasses be properly presented for inspection by plant personnel. To accomplish this, it is imperative that the birds originate from healthy flocks exhibiting a low level of problems and that the plant workers are highly skilled and the equipment is modern and properly maintained.

The real promise in this area will come with the development of a machine that will enable our inspectors to work without ever having to touch the carcass. Presently, the carcasses must be manipulated and opened up manually in order to view the internal body cavities. Some equipment manufacturers are attempting to develop this equipment and we are hopeful that in the not too distant future such machinery will be in operation. If successful, the inspection service can expect to gain even greater productivity.

We are also studying the concept of flock testing. We know that healthy flocks require less intensive inspection. There may be certain factors such as the environment, vaccination program, antibiotic use, or flock health records, that may allow us to predict the condemnation rate at post-mortem inspection. If this is true, this information might well allow us to vary the intensity of inspection.

Let me give you an example of how it would work. On the day before slaughter, the inspector would receive information on the health of the flock. A sample of birds would be selected and slaughtered. The historical data on the flock and the disease incidence in the slaughter sample would be used to determine the probable health status of the flock. Post-mortem inspection procedures would be based on our findings regarding the flock.

Tuskegee Institute in Alabama is studying flock testing under contract from FSIS, and we expect a report in June. If it proves successful, flock testing will allow packers to increase production and allow FSIS to provide effective inspection at low cost.

We also are testing new post-mortem inspection procedures for turkeys which are patterned after MTI. It is a sequenced process, dividing the inspection of the bird between two inspectors rather than having one inspector responsible for the entire carcass, as in the traditional method.

Currently, most turkey processing operations have two inspectors stationed at the head of the line—each responsible for an entire bird. The new process, however, has only one inspector there who checks the cavity of the bird and the viscera.

This increases efficiency because the first inspector no longer has to point out to a plant trimmer the non-pathological lesions and contamination which must be trimmed away. The plant workers complete the trim as the bird moves down the eviscerating line. This should minimize the number of times the line has to be stopped while the inspector waits for the trimming to be completed. At the end of the line the carcass is checked by a second inspector who uses a mirror to inspect all sides without having to turn the bird by hand.

This new method should enable turkey slaughter plants to operate at faster linespeeds for two reasons. First, most of the inspector's hand motions are eliminated. Since turkeys are heavy birds, completely turning a carcass takes a significant amount of time. Second, the inspector no longer spends time supervising the trimming of the bird by plant employees.

One test on the new procedure has been completed and a second is underway. We are looking for additional plants which can accommodate the testing and are willing to make the necessary facility changes and operate at higher linespeeds.

After we complete our tests we will evaluate the data and consider proposing a change in the regulations to implement these procedures. The preliminary results from the first test suggest the new procedures are as effective as the traditional method, so we believe we are on the right track.

All of these changes which I've just described are designed to increase the productivity of the inspection workforce while continuing our high level of consumer protection. By increasing our own productivity, we allow the poultry industry to increase its productivity. And by maintaining consumer confidence in the poultry supply, the industry is able to increase its market share.

A very different way we service American poultry producers is through the FSIS Export Coordination Staff. In August 1980 this staff was established to serve as an ombudsman and to help facilitate the export of U.S.-produced meat and poultry products, and to help American producers maintain and expand foreign markets.

U.S. plants that export must usually be certified by the importing countries as meeting their domestic inspection requirements. Consequently, when foreign countries change their requirements, exporters must change to meet the new conditions. In the past, changes in the requirements of foreign countries, particularly those in the European Economic Community, have delayed certification and retarded U.S. exports.

The poultry industry has been particularly hurt by a series of steps taken by officials of the United Kingdom. Although I'm sure you're all familiar with this situation, let me briefly describe what has happened and how it has affected the poultry industry.

In 1978, all federally-inspected U.S. poultry plants—more than 2,000—were eligible to export to the United Kingdom. Then, in an effort to protect its own industry, U.K. officials informed us that, in the future, all countries which export poultry products to the U.K. would be required to meet European Economic Community requirements for poultry slaughter and processing plants.

First, they announced all poultry had to be chilled in counterflow immersion chillers. That totally shut out American exports until seven plants revamped their chilling processes and others began to ship cooked poultry. Then the U.K. required that all cooked birds exported had to be chilled in the counterflow method as well.

But the most damaging move was a September, 1981, ban on all imports of fresh and frozen poultry, eggs, and egg products if the exporting country is not free of Newcastle disease, uses a vaccine against the disease, or does not apply compulsory slaughter requirements if there is an outbreak of the disease. As a result of this action, only cooked poultry product can now be exported to the U.K. from the United States. For the poultry industry, that meant the loss of a market for nearly 1,500 metric tons of uncooked poultry. Today only 30 American poultry plants are eligible to export cooked poultry to the U.K.

To try to avoid these problems in the future, the FSIS Export Coordination Staff meets with foreign officials to map the exact requirements of each country, and to try to reconcile differences between countries. They also work with industry organizations and individual plants to help domestic producers meet foreign requirements. As an extension of this effort, we have assigned a veterinary attache to the European Economic Community in Brussels to help us anticipate any differences in regulations or procedures that may impede trade. It is a great advantage to us and to the domestic industry to have someone on the spot to help solve difficult problems that often arise because of poor communications.

We also are working to modernize the inspection program by seeking legislative change from the Congress. As part of the President's budget package which went to Congress February 8, we are asking for a modification of the "continuous inspection" provisions of the Federal inspection laws as they relate to processing inspection. The proposed revisions would give the Secretary of Agriculture more discretion in deciding the intensity and level of inspection in plants where meat and poultry is further processed.

As I discussed earlier, current law requires an intensive system of inspection with government inspectors in plants on a routine basis. Over the years, however, processing activities became increasingly different from slaughtering activities, and it became obvious that providing the same level of inspection in all plants, regardless of their processing functions and procedures, was not an efficient use of inspection resources.

There is a growing number of small, specialized processing plants. Thousands of new processed food products are now manufactured using mass production

equipment. Industry has improved its ability to monitor and control processing operations. These developments make it impractical for the Department to base its inspection of processed products on a law that requires an inspector to inspect all products prepared in an establishment. The legislative changes we are seeking will give us the flexibility to allocate our resources so we can deal more efficiently with the many different inspection situations faced today.

We are recommending that the statutes authorizing meat, poultry, and egg product inspection activities be changed to give the Secretary more discretion in determining appropriate methods of food processing inspection on a plant-by-plant basis and to reduce the required number of shell egg surveillance visits from four to one per year.

In deciding the intensity of inspection under the proposed legislation, we will look at the public health risk of the operation, the ability of the plant to monitor its own processes, and the plant's history of compliance. If enacted, we believe this legislation could lead to substantive savings over the next five years.

Another issue on the legislative front which has been the subject of much discussion and media coverage is charging the industry a "user fee" for Federal inspection. Let me bring you up-to-date on this matter. The Administration has looked at the issue and has decided not to seek legislative changes in fiscal year 1983 to allow the assessment of user fees. Administration officials are concerned that charging meat and poultry processors for mandatory inspection introduces questions about the integrity of the inspection program. Further study by the Department will be conducted.

On the regulatory front, we expect to propose several changes in the next few months to help relieve the regulatory burden on the poultry industry. One of the most publicized changes will be a streamlining of labeling review procedures. FSIS operates and maintains a prior labeling approval program for all labelings used on meat and poultry products. Each year we review over 100,000 labelings to be sure they are accurate and not misleading.

Our proposal is based on a 4-month pilot project in which the Agency delegated certain labeling approval authority to inspectors in the field. Inspectors-in-charge could give final approval of printed labels that had been previously approved in sketch by the Washington office. The inspectors also approved certain simple labels such as a label for turkey, which has only one ingredient.

Most applications were returned to plant management the same day and on average required a half-hour or less of the inspector's time. The field inspectors achieved a high degree of technical accuracy. We estimate that the proposed changes would reduce by over one-half the number of labelings needing approval in Washington. This should speed up the entire labeling approval process in a very real and practical fashion, and thus provide welcome relief to you and us alike.

Another change we are considering for proposal in the next few months would redefine the operating procedures needed to label poultry "frozen." Currently the Agency requires that ready-to-cook poultry be frozen to 0 degrees F. within 72 hours of the time it enters the freezer. The change being considered allows processors to label their product as frozen at a point where it is solidly frozen but at a temperature higher than 0 degrees. We are taking steps now to determine the new proposed temperature level. This proposal should save firms energy, time and valuable freezer space.

Finally, the Agency is moving to permit the use of quality control procedures in the early morning sanitation inspection of meat and poultry slaughter plants.

STATEMENT OF JOHN A. LITTLE, DEPUTY REGIONAL ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IV, ATLANTA, GA.

My name is John A. Little, Deputy Regional Administrator in EPA's Region IV office in Atlanta. I am here today to describe EPA's programs dealing with the poultry production and processing industry.

The Environmental Protection Agency is charged with the administration of many Federal environmental laws, and several of these affect the poultry processing industry. The Clean Water Act probably has more impact on the poultry industry than any other Federal environmental law, but the Resource Conservation and Recovery Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Toxic Substances Control Act also affect poultry production and processing. I will briefly discuss impacts of each of these four Federal laws.

EPA's Effluent Guidelines Division in the Office of Water studied the poultry processing industry in 1974 and 1975. The purpose of this effort was to obtain technical and engineering information to develop wastewater effluent limitations guidelines and new source performance standards for those poultry processors who discharge into navigable waters of the United States and are required to have a permit to discharge under the National Pollutant Discharge Elimination System (NPDES) program. Information available to the Agency from this study indicates that there are approximately 80 direct dischargers which require permits. These plants are located primarily in the major poultry processing States—Georgia, Arkansas, North Carolina, Maryland, Virginia, Mississippi, Delaware, and California.

The Agency study indicated that poultry processing operations are significant sources of what we term either conventional pollutants, including biochemical oxygen demand (BOD), suspended solids, oil and grease, and fecal coliform; or nonconventional pollutants, including ammonia nitrogen. Discharge of toxic pollutants is not a known problem for this industry. While the total volume of wastewater generated by the poultry industry is not as significant as for other industrial categories, the volume and wastewater strength at a specific plant site can be very significant, especially for small streams to which many processors discharge. The Agency's study of the industry focused on processing methods, wastewater generation and discharge characteristics, available control and treatment technologies, and the cost and performance of these control and treatment technologies. The Agency also performed a parallel economic analysis of the industry to determine the economic impact of the cost of implementing available control and treatment technologies.

Based upon these studies, the Agency proposed in April 1975, three groups of regulations. The first group of regulations dealt with best practicable control technology currently available (BPT). These regulations controlled biochemical oxygen demand (BOD), suspended solids, oil and grease, and fecal coliform, and were based upon biological treatment technology. The second group of regulations was based upon best available technology economically achievable, or BAT. In addition to spelling out discharge limits for the BPT-type pollutants, the BAT regulation also added limits for ammonia nitrogen. The BAT regulations were based upon the addition of "upfront" pretreatment technology to reduce the existing volume and pollutant load on biological treatment, plus the addition of technology to remove ammonia (nitrification) and residual suspended solids. The Clean Water Act called for meeting BPT requirements by July 1977, and BAT by July 1, 1983.

The third group of regulations provided for new source performance standards, or NSPS. These new source performance standards had the same technology basis and the same numerical effluent limitations as for BPT. This NSPS regulation also included effluent limitations for ammonia nitrogen.

The poultry processing plants in the industry which discharge to publicly owned treatment works did not have regulations proposed requiring pretreatment of their discharge before it is released into public sewerage systems.

The poultry processing industry reaction to these proposed regulations focused on two major areas of concern. First, the industry was concerned about the stringency of EPA's ammonia nitrogen limitations as well as the need for controlling this nonconventional pollutant at the national level. Second, the industry was concerned about the economic impact of complying with these regulations, especially for small poultry processing operations. Also, there were numerous comments dealing with specific technology and economic issues.

During the process of reviewing and responding to industry comments prior to preparing final regulations, EPA's priorities and resources in the effluent guidelines program were shifted to the control of toxic pollutants. This shift in priorities was required as a result of the 1976 Settlement Agreement between EPA and the Natural Resources Defense Council (NRDC). This shift in EPA's regulatory focus resulted in the deferral of rulemaking efforts for the poultry industry.

In Fiscal Year 1980, EPA initiated an updated study of the poultry industry. The focus of this study was to update the processing and pollution control profile of the industry in order to complete rulemaking efforts and to comply with new treatment requirements in the Clean Water Act Amendments of 1977. The first step in this new study involved development of an information and data gathering program in coordination with key poultry industry trade associations, including the National Broiler Council.

EPA's resource and rulemaking plans for Fiscal Year 1981 and 1982 included completion of the poultry processing wastewater discharge rulemaking effort. Under the current Agency budget we will be working on the development of guidance documents. These documents could be used by permit writers to establish case-by-case permit conditions for direct dischargers. Additionally, other technical and economic guidance documents would be made available to permit writers.

It is important to note that most of the States in which poultry processors are located (with the notable exceptions of Arkansas, Florida, and Texas) have EPA approved authority to implement the NPDES permit program. A number of poultry facilities in some of these states are required to meet very stringent effluent limitations based upon water quality constraints for local receiving streams. In addition, poultry processors in the State of Georgia have been strongly encouraged to implement land disposal of wastewater so that there is no discharge to navigable waters.

The Agency also has been involved in other areas to assist the poultry processing industry in the development and implementation of cost effective control and treatment technology. For example, EPA's Technology Transfer program in the Office of Research and Development has published technical documents and held seminars to assist the industry. In addition, the Agency has sponsored research, development, and demonstration projects to evaluate control and treatment technologies. For example, a project in North Carolina evaluated methods of in-plant control and "housekeeping" to reduce the volume and pollutant loading of wastewaters which must be treated. This project identified the concurrent benefit of considerable energy consumption savings.

In summary, EPA has not developed, and will not develop in the near future, effluent limitation guidelines and new source performance standards for the poultry processing inlustry. Permits for all poultry processors have been developed either by the appropriate delegated NPDES state program, or, for nondelegated states, by the appropriate EPA Regional Office. Permits are developed on a case-by-case basis using best professional judgment. As I noted earlier, permit conditions have been developed based upon local water quality constraints. EPA provides technical assistance to states in the development of discharge permits.

Permit me now to briefly touch on the impact of other Federal environmental laws on the poultry industry.

RESOURCE CONSERVATION AND RECOVERY ACT

Animal and agricultural wastes are included in the definition of solid wastes and are regulated by State Solid Waste Management Plans. The State Plans have been developed under requirements of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976. Each Plan must show that solid poultry wastes when returned to the soil must be treated so as to prevent a health hazard or public nuisance. Any wastes which are moved away from the waste generation site would have to be disposed of in an approved sanitary landfill. Each State's Solid Waste Management Act must assure cover age of poultry processing wastes, on and off site, according to Federal criteria and guidelines.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Another area to touch on is EPA's Pesticide Program administered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Our basic pesticide regulatory job is to prevent unreasonable hazards to humans and the environment. One tool is to regulate allowed usage of pesticides under our pesticides registration program. EPA also establishes tolerance levels for pesticides in poultry products, which are then enforced by the U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA).

EPA recognizes that poultrymen face a tremendous pest control problem. The Agency has registered a number of insecticides for adult and larvae housefly control, including pyrethrin and the synthetic pyrethroids. There are times, however, when these effective products cannot hold in check exploding housefly populations. In these situations, two mechanisms under FIFRA can be utilized by the State and industry to seek approval for special uses of pesticides. Section 18 provides for exemption of a federal or state agency from FIFRA to meet an emergency. Under this section, if the Mississippi Department of Agriculture and Commerce submits justification to EPA that an emergency exists and if the sup-

porting data are adequate to show that no human hazard or environmental hazard will occur through use of an unregistered pesticide, such use can be authorized. Under Section 24(c) registrations can be granted by the Department to a pesticide manufacturer or formulator for new products or uses or changed use patterns of registered pesticides, to meet special local needs. Tolerance requirements must be met and sometimes a change in method of application or dosage level may be requested to meet the local need.

The State of Mississippi has made use of both authorities to meet special problems in the past, and EPA will continue to cooperate with all states in the effort to alleviate pest problems that impact on the poultry industry.

TOXIC SUBSTANCES CONTROL ACT

EPA also administers regulatory and informational programs under authority of the Toxic Substances Control Act (TSCA). One of these programs is of interest to this Committee. EPA has developed regulations for the control of polychlorinated biphenyls (PCB's) which are aimed at virtual elimination of this toxic chemical as an environmental pollutant. Industries which process or handle foods are affected by our PCB regulations. All transformers which contain PCB's and are located within 50 feet of any food or food processing area must be inspected weekly. Records of these inspections must be kept for periods of five years after final inspection. An annual report of this inspection and maintenance program must be submitted to the Regional Office.

In closing, let me assure you that the Environmental Protection Agency is committed to minimizing significant economic impacts of its regulations on industry, particularly on small businesses, organizations, and governmental entities. EPA has analyzed the impacts of its regulations on small entities and worked to grant exemptions to reduce burdens. In early 1981, our efforts were further increased in this area by the establishment of an Agency Workgroup to implement the Regulatory Flexibility Act to insure that maximum benefits are realized from this regulatory reform initiative—that is, that while achieving the Agency's statutory goals, our regulations do not impose unnecessary costs on small entities. In addition to the extensive review and analysis of the impact of new regulations, we have screened our existing regulations, and at the end of last year we had issued more than 40 regulations that have less stringent requirements for small businesses.

We are equally committed to improve the scientific and technical basis for the standards and regulations we develop. The Agency has already undertaken a study to design measures for improving both the structure and the research process within EPA, and we are implementing a thorough peer review process for EPA scientific work in order to improve the consistency of our scientific decision making.

This concludes my formal remarks Mr. Chairman and I would now be happy to answer any questions you and members of the Committee may have.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION IV,
Atlanta, Ga., March 10, 1982.

Hon. THAD COCHRAN,
Committee on Agriculture, Nutrition and Forestry,
U.S. Senate, Washington, D.C.

DEAR SENATOR COCHRAN: This letter is to provide the Agriculture Committee supplemental information in response to questions raised at the Poultry Hearing which you chaired in Meridian, Mississippi, on February 16, 1981. The attached information is submitted for inclusion in the hearing record.

Please do not hesitate to contact me if additional information is requested. Once again, thank you for providing us the opportunity to testify before the Committee.

Sincerely yours,

CHARLES R. JETER,
Regional Administrator.

Enclosure.

Question 1. More definitely, how does the Mississippi Solid Waste Plan affect poultry farmers and poultry processors?

Answer. The Mississippi Department of Natural Resources does not have specific regulations concerning agricultural waste. However, the Mississippi Solid Waste Plan does reference feedlot wastes from cattle, swine and chicken

feeding operations. Although the section of the Plan dealing with this waste stream is not addressed in detail, the State does plan additional studies and program development in those areas later in its solid waste development process.

The only activity by the Division of Solid Waste Management in the management of agricultural waste at the present is regulation (by reference to guidelines) of agricultural lagoon sludge disposal. At this point agricultural sludges (including poultry sludge) when moved away from the waste generation site would have to be disposed of (landfill) in an area designated and approved by the State.

Question 2. What is the regulatory status of Best Management Practices (BMP's) developed under the Clean Water Act 208 program (especially in Mississippi)?

Answer. Under the 208 program the State BMP's primarily center around control of agricultural-related activities which result in runoff of pollutants (non-point sources) causing significant water quality problems. Included in the Water Quality Management process is the identification of non-point sources and the recommendation of guidelines for locally developed BMP's to curb pollution from those sources. The poultry industry is not a source which has been specifically identified by any of the states in Region IV for inclusion under BMP guidelines. Voluntary compliance by non-point sources is heavily relied on to achieve and maintain acceptable levels of water quality; however, implementing methods outlined in the final 208 plans can be enforced through local and state government agencies. The State of Mississippi has not adopted regulatory controls on the application of BMP's for non-point sources. Feedlot discharges in all states, however, are subject to regulatory control through the National Pollutant Discharge Elimination System (NPDES) permit program. In Mississippi, feedlot wastes are regulated by the Bureau of Pollution Control within the Department of Natural Resources. If a feedlot waste treatment system has a discharge, it must have an NPDES permit; if it has no discharge, it must have a State "No Discharge" permit. Waste from poultry feedlots usually go directly into a landspreading operation and do not require an NPDES permit.

Question 3. What does the poultry farmer need to do with regard to disposal of chicken manure?

Answer. The use of animal waste as fertilizer is a long standing practice. At normal application rates it is beneficial to soils and crops and provides an excellent means for the utilization of wastes from animal feedlots. Although experience with normal application rates is extensive, no specific rules for such applications can be formulated. Each situation must be reviewed for nutrient requirements in order to establish proper application rates. Landspreading does have potential for secondary pollution such as seepage or runoff of nutrients and odor and therefore must be carefully controlled. Other methods of disposal are discussed below.

Question 4. Are there other approved disposal methods which might be less costly than land spreading and plowing into the soil?

Answer. The Mississippi Bureau of Pollution Control advised that the majority of poultry feedlot operations employ direct land spreading of chicken manure. Generally, there is no requirement for plowing the waste into the soil except in a very few instances where complaints of odor problems have been received from nearby residences. In these cases, the Mississippi Bureau of Pollution Control has asked the farmer to cooperate by disking the manure into the soil as regularly as possible to eliminate nuisance odors and/or fly problems. Types of waste disposal suitable to the poultry industry other than land spreading include:

(1) Composting—for recycling as a soil additive. This method is an available technology practiced on a large scale; however, to be economical a reliable market is required.

(2) Denydration—drying of animal waste and sell as a fertilizer, primarily to the garden trade.

(3) Feed Recycle Process—Pilot studies have been performed to produce protein in the form of animal or plant food from these wastes; however, none to date have been successful on a large scale basis. This method of recycling might best be applied on a case-by-case basis.

(4) Waste Treatment Systems—(a) oxidation ditch—one of the simplest and easiest to maintain of all waste treatment systems and is generally applicable to all poultry feedlot operations. It offers the primary benefits of near odorless operation plus reduced labor and clean feeding facilities; (b) activated sludge—this process (bacterial digestion in an aerated tank) is relatively complex, but greatly reduces land spreading requirements and can be operated in winter conditions. Energy and operating costs can be relatively high.

Other treatment systems and disposal techniques are in the pilot plant or laboratory development stage. Some of these include: anaerobic production of fuel gas, reduction with fly larvae, gasification systems, pyrolysis, steam hydrolysis and chemical extraction systems.

The cost of specific disposal methods is a complex subject and currently the relatively undeveloped state of technology has prevented gathering much cost information. A reliable cost base is further complicated by differences in climate, soil, state guidelines, implementation philosophy and other factors. Due to the uniqueness of each feedlot operation, climate, soil, etc.; waste disposal and runoff control problems must be addressed separately and may require the attention of several organizations, generally including the state agency responsible for pollution control or EPA, the Soil Conservation Service, the Agricultural Extension Service of the applicable state university, or possibly consultants hired to design the system.

Question 5. Is there documentation on adverse water pollution effects or runoff from poultry farming areas?

Answer. The Agency has a limited data base to quantify and qualify pollutional effects of all non-point sources (NPS) on surface and ground-water resources on a national scale. A primary objective in the continuing 208 planning program will be to fill in the critical data gaps to build the basis for future controls on the more difficult NPS problems. We know that NPS pollution is a problem of serious national significance—the majority of the states have reported that NPS pollution could prevent attainment of the Clean Water Act's statutory goals of fishable, swimmable waters. Since agricultural and urban runoff have been identified as the major non-point sources, more data are available on these problems than on others. Studies have related runoff from animal feedlots to water pollution problems. A USDA survey in 1978, covering 90% of the nation's animal feedlots, revealed that 20% had water quality problems. Fifty percent of the smaller feedlots (under 1,000 animals) contributed high nutrient loads to water bodies.

The Mississippi Bureau of Pollution Control in its ambient water quality monitoring program collects water quality data monthly from a network of streams throughout the state. During heavy rainfall periods, monitoring reveals the highest bacterial counts in areas with the highest density of poultry farming operations. While we have no site specific documentation of poultry runoff problems in the Southeast, studies conducted by EPA have documented the adverse effects of runoff from improperly designed and operated aerobic liquid waste treatment systems and from poor management practices associated with land application. Poultry operations have been a source of fish kills, lowered recreational values, and nuisances to surrounding areas. The percentage of feedlot operations which have instituted runoff control has, however, increased significantly over the last 10 years. In actual practice, only a small percentage of feedlot wastes, 10% or less, actually leaves the lot area. This percentage could grow with increased poultry production if pollution control measures do not keep pace.

Question 6. Status of EPA action on the State of Mississippi's request for conditional registration of Ferriamicide for fire ant control.

Answer. On February 26, 1982, the Agency announced that a symposium on the issue of fire ants and their control will be convened by EPA and USDA to include scientists and other experts from the public and private sector. The decision was prompted by Mississippi's application for conditional registration of Ferriamicide. The symposium, tentatively set for June 1982, will consider the full range of fire ant issues; including the resurgence of ants following treatment control techniques now being used, the benefits and risks of existing chemicals and new chemicals now being developed. Dr. John A. Todhunter, EPA's Assistant Administrator for Pesticides and Toxic Substances, stated that a hasty decision to either grant or deny the application of Mississippi would be inappropriate at this time since the control of fire ants has been a difficulty for decades and has raised a number of significant scientific issues.

Question 7. What are the approved control measures for fire ants? Industry speakers indicated problems with respect to death of baby chicks.

Answer. If a farmer has a problem with fire ants in his poultry houses there could be mounds in the vicinity and should be treated. EPA has registered several insecticides for mound application for fire ant control. Some that can be used include Amdro, Diazinon, Dursban, and Carbaryl.

○